

FLOOD DAMAGE PREVENTION ORDINANCE
Non-Coastal/Riverine Communities

Ordinance: (2008 – 02), (2018-02), 2018-03 Revised August 7, 2018

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

SECTION A STATUTORY AUTHORIZATION

The Legislature of the State of Alabama has in Title 11, Chapter 19, Section 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, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of Mooresville, Alabama, does ordain as follows:

SECTION B FINDINGS OF FACT

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

SECTION C STATEMENT OF PURPOSE

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

1. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
2. restrict or prohibit uses which are dangerous to health, safety, and property due to water of erosion hazards, or which increase flood heights, velocities, or erosion;
3. control filling, grading, dredging and other development which may increase flood damage or erosion, and;

4. prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
5. control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

SECTION D OBJECTIVES

The objectives of this ordinance are:

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

ARTICLE 2 GENERAL PROVISIONS

SECTION A LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of Mooresville, Alabama.

SECTION B BASIS FOR AREA OF SPECIAL FLOOD HAZARD

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its **Flood Insurance Study (FIS), dated 06-13-2008**, with accompanying maps and other supporting data **and any revision thereto**, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective FIS and data for Limestone County are hereby adopted by reference. Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

SECTION C ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provisions of this ordinance PRIOR to the commencement of any Development activities.

SECTION D COMPLIANCE

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

SECTION E ABROGATION AND GREATER RESTRICTIONS

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

SECTION F INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or used permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Mooresville or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

SECTION H PENALTIES FOR VIOLATION

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

SECTION I SAVINGS CLAUSE

If any section, subsection, sentence, clause, phrase, or word of this ordinance 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.

ARTICLE 3 ADMINISTRATION

SECTION A DESIGNATION OF ORDINANCE ADMINISTRATOR

The Mayor or designee is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B PERMIT PROCEDURES

Application for a Development Permit shall be made to the Mayor or designee on forms furnished by the community **PRIOR** to any development activities, and may include, but not be limited to, the following: Plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following procedures and information are required for all projects in the Special Flood Hazard Areas within the jurisdiction of the Town of Mooresville:

(1) Application Stage

Plot plans are to include:

- (a) The Base Flood Elevation (BFE) where provided as set forth in Article 2, Section B; Article 4, Section C; or Article 5, Section D;
- (b) Boundary of the Special Flood Hazard Area and floodway(s) as delineated on the FIRM or other flood map as determined in Article 2, Section B;
- (c) Flood zone designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 2, Section B;
- (d) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
- (e) Elevation in relation to mean sea level to which any non-residential structure will be flood proofed;
- (f) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections B(2) and E(2);
- (g) A Foundation Plan, drawn to scale, that 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), B(3), D(7), and E(1) when solid foundation perimeter walls are used.
- (h) Usage details of any enclosed areas below the lowest floor shall be described.
 - (i) 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.
 - (j) 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 provided 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.
 - (k) Certification of the plot plan by a licensed professional engineer or surveyor in the State of Alabama is required.

(2) 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. When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to 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 progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

The Floodplain Administrator shall make **periodic inspections** of projects during construction throughout the Special Flood Hazard Areas within the jurisdiction of the community to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. Members of his or her inspections/engineering department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour 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 substantial 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.

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 level must meet the community's freeboard elevation at that location. If the top of fill level is below the freeboard elevation, all new structures, additions to existing buildings or substantial improvement must meet the required community freeboard elevation.

(3) Finished Construction

Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31), which depicts all finished construction elevations, is required to 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 is required to be submitted by the permit holder to the Floodplain Administrator.

The Floodplain Administrator shall review the certificate(s) 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 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 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 ADMINISTRATOR

Duties of the Mayor or designee shall include, but shall not be limited to:

1. Review all development permits to assure that the permit requirements of this ordinance have been satisfied; and, assure that sites are reasonable safe from flooding.
2. Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including section 404 or the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
3. When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2 Section B, then the Mayor or designee shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a Federal, State, or other sources in order to administer the provisions of Article 4.
4. Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with Article 3, Section B (2).
5. Verify and record the actual elevation in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 4, Sections B (2) and E (2).
6. When flood proofing is utilized for a structure, the Mayor or designee shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3(B)(1)(c) and Article 4(B)(2) or (E)(2).
7. Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Department of Economic and Community Affairs/Office of Water Resources/NFIP State Coordinator's Office.
8. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the 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.

9. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Mayor or designee 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.
10. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Mayor or designee and shall be open for public inspection.

ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

1. Require copies of all necessary permits from 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 be on file.
2. New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
3. New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.
 - a. All subdivision proposals shall be consistent with the need to minimize flood damage;
 - b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
5. All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and /or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
6. Manufactured Homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
7. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

8. 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;
9. On-site waste disposal systems shall be located and constructed to avoid impairment to the or contamination from them during flooding, and:
10. Any alteration, repair, reconstruction, or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non-conformity is not furthered, extended or replaced.
11. Proposed new construction and substantial improvements that are partially located in an area of special flood hazard shall have the entire structure meet the standards for new construction.
12. Proposed new construction and substantial improvements that are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations shall have the entire structure meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

SECTION B SPECIFIC STANDARDS

In ALL Areas of Special Flood Hazard designated as A1-30, AE, AH, A (with estimated BFE), the following provision are required:

1. Residential and Non-Residential Structures – Where base flood elevation data are available, new construction or substantial improvement of any structure of any structure or manufactured home **shall have the lowest floor, including basement, elevated no lower than one foot above the base 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), "Enclosures for Elevated Buildings".
2. Non-Residential Construction – New construction or the substantial improvement of any non-residential structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. **The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot about the base flood elevation,** with walls substantially impermeable to the passage of water structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C(6).

3. Enclosures for Elevated Buildings

All new construction and substantial improvements of existing structures that include **ANY fully enclosed area** below the base flood elevation, 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 or architect or meet the following minimum criteria:
 - i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding (if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls);
 - ii. The bottom of all openings shall be no higher than one foot above grade; and
 - iii. Openings may be equipped with screens, louvers, valves and other coverings and devices provided they permit the automatic flow of floodwater in both directions.
- b. 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 of maintenance equipment used in connection with the premises, or entry to the elevated area.
- c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. All interior walls, ceilings and floors below the base flood elevation shall be unfinished and/or constructed of flood resistant materials.
- d. Mechanical, electrical or plumbing devices shall not be installed below the Base Flood Elevation. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power as required.

4. Standards for Manufactured Homes and Recreational Vehicles – Where base flood elevation data are available:

- a. All manufactured homes placed or substantially improved on: (i) individual lots or parcels, (ii) in new or substantially improved

manufactured home parks or subdivisions, (iii) in expansions to existing manufacture home parks or subdivisions, or (iv) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement elevated no lower than one foot about the base flood elevation.

- b. Manufactured homes placed or substantially improved in an existing manufacturing home park or subdivision may be elevated so that either:
 - i. The lowest floor of the manufactured home is elevated no lower than one foot about the level of the base flood elevation, or
 - ii. Where no Base Flood Elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength and is elevated to a maximum of 60 inches (five feet).
 - c. All Manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. (Refer: Article 4, Section A(6))
 - d. All recreational vehicles placed on site must either:
 - i. Be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use if it is licensed, on it's wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; or
 - ii. The recreational vehicle must meet all the requirements for "New Construction," including the anchoring and elevation requirements of Article 4 Section B (4)(a) - (c), above.
5. **Floodway** No new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the Town of Mooresville FIRMs, 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.
6. **Accessory Structures (also referred to as appurtenant structures)** – This provision generally applies to new and substantially improved accessory structures. When an accessory structure complies with all other provisions of this ordinance (including floodway encroachment), represents a minimal investment (less than \$1,000), and meets the requirements outlined below,

these structures may be wet-floodproofed and do not have to be elevated or dry floodproofed.

Accessory structures include, but are not limited to, residential structures such as detached garages, storage sheds for garden tools or woodworking, gazebos, picnic pavilions, boathouses, small pole barns, and similar buildings. The following provisions apply to accessory structures built below the base flood elevation:

- a. A permit shall be required prior to construction or installation.
- b. Must be low value (less than \$1,000) and not be used for human habitation.
- c. Use must be restricted to parking of personal vehicles or limited storage (low-cost items that cannot be conveniently stored in the principal structure).
- d. Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the BFE.
- e. Must be adequately anchored to prevent flotation, collapse, or lateral movement.
- f. Must have adequate flood openings as described in Article 4, Section B 1. (Residential and Non-Residential Structures) and be designed to otherwise have low flood damage potential.
- g. Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- h. Any mechanical and other utility equipment in the structure must be elevated to or above the BFE or must be floodproofed.
- i. Under limited circumstances variances may be issued to permit construction of wet-floodproofed accessory structures. Variances shall not be granted to entire subdivisions for accessory structures, especially detached garages. Variances shall be reviewed and issued on an individual or case-by-case basis and shall be based on the unique characteristics of the site.

SECTION C FLOODWAYS

1. **Floodway:** Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be 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:
 - a. 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;
 - b. Encroachments are prohibited, including fill, new construction, substantial improvements or other developments within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment **shall not result in any increase** in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
 - c. As long as no fill, structures (including additions), or other impediments to flow are added, permissible uses within the floodway may include: lawns, gardens, athletic fields, play areas, picnic grounds, and hiking/biking/horseback riding trails, general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. The uses in this subsection are permissible only if and to the extent that they do not cause any increase in flood levels during the base flood discharge;
 - d. **ONLY** if Article 4, Section C (1) (a) through (c.) above are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

SECTION D BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (APPROXIMATE A-ZONES)

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (Approximated A-Zones), the following provisions apply:

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

2. When base flood elevation data or floodway data have not been provided in accordance with Article 2(B), then the Mayor or designee shall obtain, review and reasonably utilize any scientific or historic Base Flood Elevation 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 the following provisions (2&4) shall apply:
3. 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.
4. All development in Zone A must meet the requirements of Article 4, Section A and Section B (1) through (4).
5. In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site..
6. In the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Article 4, Section B, Paragraph (3)(b)(ii) in that the structure must be elevated to a maximum of 60 inches (5 feet).
7. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B (3)(a) "Elevated Buildings". The Mayor or designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
8. Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site. Any excavation or other measures taken for compensatory storage shall be properly designed to provide protection against erosion or overgrowth of vegetation in order to preserve the storage volume. Proper maintenance measures shall also be undertaken to ensure the intended storage volume remains in perpetuity.

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

Areas of Special Flood Hazard establish 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:

1. All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM) above the highest adjacent grade. **If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least two (2) 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 A (4), "Elevated Building".

The Mayor or designee shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

2. New construction of the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. **The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level or two (2) feet (if no map elevation is listed), above highest adjacent grade,** with wall substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Articles 3(B)(1)(c) and (3)(B)(2).
3. Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

ARTICLE 5 VARIANCE PROCEDURES

SECTION A DESIGNATION OF VARIANCE AND APPEALS BOARD

The Zoning Board of Adjustment as established by the Town Council of Mooresville shall hear and decide requests 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 Mayor or designee in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to the Limestone County Circuit Court, as provided in Code of Alabama 1975.

SECTION C. VARIANCE PROCEDURES

In reviewing such requests, the Board of Adjustment shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections or this ordinance.

1. Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
2. Variance shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
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.
4. Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.
7. 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.
8. 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.
9. The safety of access to the property during flood conditions for daily traffic and emergency vehicles.
10. The importance of the services provided by the proposed facility to the community.

11. The necessity of the facility to be at a waterfront location, where applicable.
12. The compatibility of the proposed use with existing and anticipated development based on the community's comprehensive plan for that area.
13. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
14. 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 the factors listed above and the purposes of this ordinance, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

SECTION D. 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 E. CONDITIONS FOR VARIANCES

The provisions of this Ordinance are minimum standard 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:

1. In the instance of a Historic Structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
2. A variance shall be issued ONLY when there is:
 - a. A finding of good and sufficient cause,
 - b. A determination that failure to grant the variance would result in exception hardship; and,

- c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Variances shall not be issued "after the fact".

SECTION F Variance Notification and Records

Any applicant to who a variance is granted shall be given written notice that:

1. specifies the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
2. The Mayor or designee shall maintain the records of all appeal actions and report any variance to the Federal Emergency Management Agency and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.
3. A copy of the notice shall be recorded by the Floodplain Administrator and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

ARTICLE 6 DEFINITIONS

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

Accessory Structure (also referred to as appurtenant structures) means a structure which is located on the same parcel of property as a principal structure to be insured and the use of which is incidental to the use of the principal structure. They should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. These structures are used solely for parking (two-car detached garages or smaller) or limited storage (small, low cost storage sheds). They are included under the general definition of structure and are consequently subject to all floodplain management regulations pertaining to structures.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "New Construction.:

Appeal means a request for a review of the Mayor or designee's interpretation of any provision of this ordinance.

Area of shallow flooding means a designated AP or AH Zone of a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and reference in Article 2, Section B.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the computed elevation to which floodwater is anticipated to rise during the base flood. It is also the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. Base Flood Elevations are shown in the FIS and on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30 and VE.

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

Building see **Structure**.

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

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, and storage of equipment or materials.

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

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

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

Existing Construction means any structure for which the "start of construction commenced before 02 September 2008 (i.e. the effective date of the FIRST floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP))

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before 02 September 2008 (i.e. the effective date of the FIRST floodplain management regulations adopted by a community.

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

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

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

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

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study / 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 and/or flood-related erosion hazards.

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

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

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

Floodway (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.

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

Freeboard means a factor of safety, usually expressed in feet above flood level, that is applied for the purposes of floodplain management.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facility that are necessary for the loading and unloading of cargo or passengers, and shipbuilding, and ship repair facilities, The term does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of this ordinance) means the exceptional difficulty that would result from a failure to grant the requested variance. The Board of Adjustment requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory or historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

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

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or floor 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 code.

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

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

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

Mean Sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or other datum.

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

New construction means ANY structure (see definition) for which the "start of construction" commenced after 02 September 2008 and includes any subsequent improvements to the structure. (I.e. the effective date of the FIRST floodplain management ordinance adopted by the community as a basis for community participation in the (NFIP)) and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after 02 September 2008 (i.e. the effective date of the first floodplain management regulations adopted by a community).

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

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

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

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

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

Recreational vehicle means a vehicle which is:

- a. Licensed and titled as a recreational vehicle or park model;
- b. Built on a single chassis;
- c. 400 square feet or less when measured at the largest horizontal projection;
- d. Has no attached deck, porch, or shed;
- e. Has quick-disconnect sewage, water, and electrical connectors;
- f. Designed to be self-propelled or permanently towable by a light duty truck; and

- g. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation means to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of it noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Section 1316 means no new flood insurance policy or federal disaster assistance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. If the structure is made compliant with the applicable community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance and disaster assistance eligibility restored.

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

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 buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (*NOTE: accessory structures are NOT exempt from any ordinance requirements*). 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 a walled and roofed building that is principally above ground, a manufactured home, 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's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Substantial damage also means flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages 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 market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring, this term includes structures which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the building. The term does not, however, include either: (1) 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 or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

Variance is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance

Violation means the failure of a structure or other development to fully compliant with the community's flood plain management regulation. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) S44, Sec.

60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4, or (e)(5) and corresponding parts of this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means any flowing body of water including a river, creek, stream, or a branch.


Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE 7: SEVERABILITY

If a 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

Ordinance adopted on August 7, 2018

By: Moorestville Town Council

 Margaret-Anne Crumlish
(Signature of Governing Official)

Certified by: 

Date: 8-7-18

