ORDINANCE NO. 10- 01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE, BY AMENDING ARTICLE I, SECTION 10-1.101, DEFINITIONS AND ARTICLE VIII, FLOODPLAIN MANAGEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

SECTION 1: Portions of Section 10-1.101 of the Code of Laws of Leon County, Florida, are hereby amended as follows:

Sec. 10-1.101 Definitions.

FEMA shall mean Federal Emergency Management Agency

Flood protection elevation shall mean an elevation determined by either subsection (1), (2), ~~or~~ (3), or (4) where a parcel is located in or adjacent to a drainage area subject to flooding, and for all parcels regardless of their location, subsection ~~(4)~~ (5) as set forth below:

(1) where no base flood elevation has been determined by an engineering study or can not accurately be determined due to the lack of essential engineering data, three feet above the highest reasonably anticipated or historically recorded elevation of surface water in the drainage area where the development activity is to take place; or

(2) where a less than fully developed upstream watershed was ~~assumed~~ determined and a base flood elevation was then determined either by an engineering study or by determining the depth of the discharge/flow over a natural topographic saddle, three feet above the level of the base flood elevation in the drainage area where the development activity is to take place; or

(3) where a fully developed upstream watershed was ~~assumed~~ determined and a base flood elevation was then determined either by an engineering study or by determining the depth of the discharge/flow over a natural topographic saddle, one and one-half feet above the level of the base flood elevation in the drainage area where the development activity is to take place; ~~and~~ or

(4) when a depth number is specified for flood hazard areas designated on the Flood Insurance Rate Map as zone AO, the lowest floor, including basement, shall be elevated to at least as many feet as the depth number above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including

basement, shall be elevated to no less than two feet above the highest adjacent grade; and

(5) in order to prevent flood damage due to overland sheet flow, a minimum of one foot higher than the finished grade elevation at a distance of five feet from the foundation for detached single family, duplex, triplex and quadraplex structures, except that garages and basements shall be protected in accordance with Section 10-8.301(k). If this minimum is lower than any of the flood protection elevations specified in (1), (2), (3) and (4) above, then the highest flood protection elevation shall apply. An exception to this one foot minimum requirement can be granted if it is demonstrated to the satisfaction of the County Administrator or designee that no adverse flooding impacts will occur to the structure.

Historic Structure means any structure that is:

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

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

c) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or

d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By the approved Florida program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior.

NAVD shall mean a common technical abbreviation for North American Vertical Datum, which refers to an elevation in relation to a known reference point, which for purposes of this chapter shall be the mean sea level based on the 1988 adjustment.

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

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. This term also includes "repetitive loss" structures as defined herein.

Substantial improvement shall mean any ~~repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this~~

~~definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.~~ reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Watercourse shall ~~be defined by the associated 10-year floodplain for~~ mean any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale, or wash, in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, banks or bed.

SECTION 2: ARTICLE VIII., FLOODPLAIN MANAGEMENT, of the Code of Laws of Leon County, Florida, is hereby amended as follows:

ARTICLE VIII. FLOODPLAIN MANAGEMENT

DIVISION 1. GENERALLY

Sec. 10-8.101. Short title.

The provisions of this article shall constitute and be known and may be titled as the floodplain management ordinance of the county adopted pursuant to the authority granted local government under ~~Title 44 CFR 59 and 60~~ Chapter 125, Florida Statutes. The ~~e~~County ~~a~~Administrator or designee shall administer and enforce all the provisions of this article. Any designee of the ~~e~~County ~~a~~Administrator shall be established in writing.

Sec. 10-8.102. Definitions.

As stated in section 10-1.101, the provisions of section 10-1.101 apply to this article. The following words, terms and phrases, when used in this article, shall have the

meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Building—see structure

Development shall mean any manmade change to ~~property for which either a stormwater management permit is required pursuant to section, or for which a building permit is required by the governmental entity having jurisdiction over the geographic area regulated by this article~~ improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

FIRM-see Flood insurance rate map

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

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when 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.

Recreational vehicle means a vehicle that is:

a) Built on a single chassis;
b) 400 square feet or less when measured at the largest horizontal projection;
c) Designed to be self-propelled or permanently towable by a light duty truck; and
d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Travel trailer shall have the same definition as "Recreational vehicle".

Sec. 10-8.103. Violations.

(a) Any person violating this article shall be punished as provided in section ~~1-9~~ 10-8.201 or as provided by law.

(b) Any person may seek an injunction against any violation of the provisions of this article and recover such damages as ~~he~~ may be suffered, including but not limited to, the damage to property as a result of construction in violation of the terms of this article.

Sec. 10-8.104. Interpretation.

(a) This article shall not repeal, abrogate or impair any existing easement, covenant, deed restriction, or ordinance; however, where this article may conflict or overlap, whichever is more restrictive shall prevail.

(b) In interpreting the applicability and requirements of this article, all provisions contained herein shall be considered minimum requirements.

(c) The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage, and it is specifically recognized that there are areas that flood or are floodprone which are not designated on the flood insurance rate maps (FIRM's), flood hazard boundary maps (FHBM's) or flood boundary and floodway maps (FBFM's). This article shall not create liability on the part of the county or on any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made hereunder.

Sec. 10-8.105. Applicability.

This article shall be effective throughout the unincorporated areas of the county and within any incorporated area of the county upon the execution of an interlocal agreement with the incorporated area specifying the terms for the implementation and enforcement of this article within such incorporated area.

Sec. 10-8.106. ~~When p~~Permits~~,~~ certification required~~ments~~.

All real property identified as subject to flooding and as special flood hazard areas by the Flood Insurance Study (FIS), FIRM's (dated August 18, 2009), FHBM's and FBFM's promulgated by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Federal Insurance Administration and any subsequent revisions thereto, which ~~maps~~ are hereby adopted by reference and declared to be a part of this article, ~~are~~ is subject to the permitting provisions hereof. All other real

property shall require certification as set forth in Subsection 10-8.202(1). The FIS and FIRMs are on file at the Leon County Department of Growth and Environmental Management Office.

Sec. 10-8.107. Development restricted.

No development shall take place within any area designated on the FIRM's, FHBM's or FBFM's as special flood hazard areas unless permitted in accordance with the provisions of this article.

Sec. 10-8.108. Placement of fill restricted.

No fill shall be placed within the channel of a river, other watercourse or a regulated floodway.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 10-8.201. Enforcement procedures.

Whenever the county determines that violation of this article has occurred, the county shall:

(1) Immediately issue written notice to the ~~permittee~~ property owner of the nature and location of the alleged noncompliance, demonstrating failure to comply with the approved application and permit, and specifying what remedial steps are necessary to bring the project into compliance. The permittee shall immediately, conditions permitting, commence the recommended remedial action and shall have seven working days after receipt of such notice, or such longer time as may be allowed by the county, to complete the remedial action set forth in such notice.

(2) If remedial work specified under Subsection (1) of this section is not completed in the time allowed, or if development of land is being carried out without an approved ~~application~~ permit, the county is authorized to issue a stop work order immediately; such stop work order shall specify grounds thereof, and shall specify wherein the noncompliance has occurred; the stop work order shall be directed not only to the person owning the land upon which the development is occurring, but also a separate stop work order shall be directed to the person actually performing the physical labors of the clearing and development or the person responsible for the construction, directing ~~him~~ the person forthwith to cease and desist all or any portion of the work upon all or any geographical portion of the project, except such remedial work as is deemed necessary to bring the project into compliance.

(3) ~~If the person fails to complete the recommended remedial action within the time allowed, or fails to take the recommended remedial action after the issuance of a stop work order under Subsection (2) of this section, then the county may issue a stop work order on all or any portions of the entire project.~~ If the person in violation, including the owner, fails to complete recommended remedial action within the time allowed, fails to take the recommended remedial action after the issuance of a stop work order, or if any person continues any development activity in violation of a stop work order, the County Administrator or designee may refer such matter to a duly established code enforcement board or shall initiate any other enforcement action authorized by law.

(4) A copy of any such notice under Subsection (1) of this section or stop work order under Subsection (2) of this section shall be served upon the ~~person by either personal delivery or certified mail~~ affected persons by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice. In addition to providing notice by certified mail, hand delivery or leaving at the person's usual place of residence, notice may also be served by publication once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Leon County, or by posting for at least ten days in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the front door of the Leon County Courthouse. A notice of violation or stop work order may be directed not only to the person owning the land upon which the noncompliance is occurring, but also to the person actually performing the physical labors of development activity or to any person actually physically committing the violation.

(5) Upon completion of remedial steps required by a notice under Subsection (1) of this section, or by a stop work order under Subsections (2) or (3) of this section, the county shall forthwith issue a notice of compliance and cancellation of such notice of noncompliance or stop work order.

(6) Review of stop work order. Any person who feels aggrieved by any stop work order issued by the county under this article or by failure to cancel same after performance of remedial steps, shall have the right to request a hearing before the Board of County Commissioners ~~within seven days after making such request~~. An appeal must be filed, in writing, with the County Administrator or designee within 30 days after the stop work order, and shall identify with particularity the decision being appealed and the grounds for the appeal. An appeal shall be considered at a hearing by the Board of County Commissioners at a regular or special meeting within

30 days after the filing of the appeal. At such hearing the county and the aggrieved person shall present any evidence bearing on the propriety of such stop work order or continuation of same. At the conclusion of the hearing, and based upon the evidence presented to it, the Board of County Commissioners shall:

a. Affirm the stop work order and the remedial steps required therein and direct continuing effect and enforcement of the stop work order until the offending portion of the project has been brought into compliance; or

b. Affirm the stop work order, but upon such modified remedial steps as the Board of County Commissioners may find necessary and appropriate, and direct continuing effect and enforcement of such stop work order until the offending portion of the project has been brought into compliance; or

c. Reverse, cancel or suspend the stop work order upon a finding that remedial steps are not necessary or that required remedial steps have been taken, or upon a finding that a stop work order is not appropriate or necessary during the performance of required remedial steps.

(7) ~~At its next meeting, the Board of County Commissioners~~ The County Administrator or designee, after at least three days' notice in writing to the person, may revoke the permit issued pursuant to this article for any project which the ~~board~~ County Administrator or designee finds, upon evidence presented ~~to it~~ that the person has proceeded with work on the offending portion of any project, except specified remedial work to bring the project into compliance with the approved plan, while under a stop work order ~~which has neither been reversed, canceled nor suspended by the Board of County Commissioners pursuant to this article~~.

(8) The ~~Board of County Commissioners~~ County Administrator or designee may revoke or modify conditions of a permit whenever the granting of the permit was based on incorrect information furnished by the applicant or ~~whatever~~ whenever substantial changes in the watershed have occurred since approval of the permit.

Sec. 10-8.202. Certification for certain construction.

Every application for a ~~building~~ development permit for ~~a~~ new ~~building to be constructed~~ construction shall be accompanied by a flood certificate from a professional civil engineer ~~registered~~ licensed in the state unless the application is for an accessory structure ~~of minimal value and is~~ less than 300 square feet. The certificate at a minimum shall have the following information submitted to the county:

(1) The certificate shall certify one of the following statements:

(a) All of the property is at or above the flood protection elevation as set forth in subsections (1), (2), ~~and~~ (3), and (4) of the flood protection elevation definition in section 10-1.101.

(b) Some or all of the property is located below the 100-year flood elevation (base flood elevation). The base flood elevation must be provided along with the flood protection elevation and the required ~~minimum finished~~ lowest floor elevation.

(c) All of the property is located at or above the 100-year flood elevation (base flood elevation), but some or all of the property is lower than the flood protection elevation as set forth in subsections (1), (2), ~~and~~ (3), and (4) of the flood protection elevation definition in section 10-1.101. The base flood elevation must be provided along with the flood protection elevation and the required ~~minimum finished~~ lowest floor elevation.

(2) Where appropriate, the certificate may certify one of the following statements:

(a) The ~~site~~ location of the proposed building is ~~not~~ in an area of the parcel that is at or above the 100-year (base flood) elevation as determined by a site plan with building location shown; or

(b) The following narrative describes the area of the parcel that is at or above the 100-year (base flood) elevation. This statement should be followed by a layman's description of the area outside of the floodplain.

(3) The Flood Insurance Rate Map (FIRM) panel number on which the property is located.

(4) The parcel ID number.

(5) The designated zone for the parcel from the FIRM maps.

(6) A statement certifying that the site has been visited by the engineer.

(7) The flood certificate must be signed and sealed by a professional civil engineer ~~registered~~ licensed in the state in accordance with 61G15-23.002 F.A.C. The certificate will not be accepted if it is older than five years.

(8) The engineer shall review all potential flood information sources to make

a determination as to whether the property is located within a flood zone. At a minimum, the following sources must be reviewed:

(a) Topographic information in two-foot or four-foot contour intervals.

(b) FIRM ~~rate~~ maps and accompanying flood profiles.

(c) Any study or model available through the county files that would have pertinent flood elevation information.

(d) Any plat, subdivision, site plan or environmental permit file that would have pertinent flood elevation information.

(e) Aerial photos.

(9) If any portion of the parcel is located in a flood area other than zone AE, whether FEMA designated or not, ~~then~~ the engineer shall determine an appropriate base flood elevation, a corresponding flood protection elevation, and a required minimum ~~finished~~ lowest floor elevation. Supporting documentation for the base flood elevation must also be submitted with the flood certificate. At a minimum the following must be done:

(a) Topographic information must be reviewed with two-foot ~~or four-foot~~ contour intervals. This information should be submitted with the flood certificate. Upstream and downstream constrictions should be analyzed.

(b) Review any model or plat available through the county files that would have pertinent base flood elevation information.

(c) Where sufficient information is not conclusive for determining a ~~100-year~~ base flood elevation for a FIRM designated A zone, the elevation should be determined as identified in FEMA's publication titled: "Managing Floodplain Development in Approximate Zone A Areas", April 1995 or its successor.

Sec. 10-8.203. Permit procedures.

(a) No development activity shall commence on any real property ~~identified as a special flood hazard area on the FIRM's, FHBM's or FBFM's~~ without a permit.

(b) If the development activity is such that a ~~building~~ development permit is required but a stormwater management permit pursuant to this chapter is not required, the permit application shall be submitted to the building inspection department.

(c) If a stormwater management permit is required, the information which is required to be submitted hereunder may be made a part of the stormwater management permit application.

(d) The following information shall be required if Section 10-8.202(1)(b) or (c) of the flood certificate applies: ~~on the application for a permit:~~

(1) The elevation in relation to ~~mean sea level~~ the North American Vertical Datum (NAVD) of the lowest floor (including basement) of all structures.

(2) Elevation in relation to mean sea level to which any nonresidential structure has been floodproofed.

(3) A FEMA Floodproofing ~~c~~Certificate from a ~~registered~~ licensed professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria contained in Subsection ~~10-1736(d)~~ 10-8.301(d) .

(4) A FEMA Elevation ~~c~~Certificate from a ~~registered~~ licensed professional engineer, architect or surveyor certifying that the lowest floor elevation (including basement) of a residential structure is at or above the flood protection elevation.

(e) No ~~building~~ development permit or stormwater management permit shall be issued until the requirements for the permit required hereunder have been satisfied.

(f) Applications shall be reviewed by the county pursuant to Florida Statutes 553.79(14). The county shall notify the applicant that the project is approved or denied.

(g) Prior to the issuance of a certificate of occupancy for, or actual occupancy of, any building for which a permit was required by this article, the permittee shall submit to the county a certification utilizing the most current FEMA elevation certification form. The form shall be completed by a ~~registered~~ licensed surveyor, engineer or architect.

(h) Any applicant aggrieved by the action of any official charged with the enforcement of this article shall have the right of appeal to the Board of Adjustments and Appeals. The appeal shall be filed with the ~~c~~County ~~a~~Administrator or designee, in writing, not less than 30 calendar days prior to the next regularly scheduled meeting of the Board of Adjustments and Appeals designating the reasons for the appeal. The appeal shall be heard at the next regularly scheduled Board of Adjustments and Appeals meeting.

(i) The applicant must demonstrate that all applicable Federal, State of Florida, and local permits have been obtained.

Sec. 10-8.204. Revocation of permit.

The ~~intentional~~ misrepresentation of any fact on an application for the permit required by section 10-8.203 shall be cause for the ~~c~~County ~~a~~Administrator or designee to revoke such permit. The revocation of such permit will be grounds for the county to ~~seek an injunction~~ issue a stop work order prohibiting continued construction of the development.

Sec. 10-8.205. Duties of county.

The county shall:

(1) Notify the state National Flood Insurance Program (NFIP) coordinating office and adjacent communities prior to any alteration or relocation of a ~~floodway~~ stream channel and submit evidence of such notification to the Federal Emergency Management Agency.

(2) Assure that maintenance is provided within the altered or relocated ~~floodways~~ portion of any watercourse so that the flood-carrying capacity is ~~not diminished~~ maintained.

(3) Record the actual elevation of the lowest floor of all new ~~or~~ and substantially improved structures in accordance with section 10-8.203 and maintain records of all such information.

(4) Record the actual elevation to which all new ~~or~~ and substantially improved structures have been floodproofed in accordance with section 10-8.203 and maintain records of all such information.

(5) Interpret the FIRM's, FHBM's and FBFM's as needed regarding the exact location of the boundaries of the area of special flood hazard and floodway. Any person aggrieved by the decision of the county shall have the opportunity to appeal such interpretation as provided in Subsection 10-8.203 (h).

(6) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, ~~substantial improvements,~~ or other development in zone A comply with provisions of section ~~10-1736~~ 10-8.301 and section ~~10-1737~~ 10-8.302.

(7) Notify applicants that compliance with this article does not relieve applicant's responsibility to acquire permits from those other governmental agencies from which approval for the development is required.

(8) Review all permit applications to determine whether proposed building

sites will be reasonably safe from flooding.

(9) Review subdivision proposals and other proposed new 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 new development is in a floodprone area, any such proposals shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize flood damage within the floodprone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and (iii) adequate drainage is provided to reduce exposure to flood hazards. Floodplains and base flood elevation data shall be identified in accordance with Section 10-4.202(a)(1)e.

Sec. 10-8.206. Variances.

The Board of Adjustment and Appeals shall have the authority to grant variances from the strict application of provisions of this article.

(1) No variance shall be issued within any designated floodway if any increase in flood levels during the base flood discharge would result except when pursuant to subsection 10-4.327 (3).

(2) Conditions for granting of variance:

a. Variance shall be approved only upon:

1. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

2. A showing of good and sufficient cause;

3. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

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

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

1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage, and
2. Such construction below the base flood level increases risks to life and property.

c. The county shall be notified of all variance actions by the Board of Adjustment and Appeals and report any approved variance to the Federal Emergency Management Agency upon request.

(3) Criteria for evaluating applications for variance. In passing upon variance application, the board of adjustment and appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and~~:~~

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

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

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

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

e. The necessity to the facility of a waterfront location, where applicable;

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

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

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

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

j. 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;

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

l. In addition, upon consideration of the factors above and the purposes of this article, the board of adjustment and appeals may attach such conditions to the granting of a variance as it deems necessary to further the purposes of this article.

DIVISION 3. STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 10-8.301. Generally.

(a) All new construction and substantial improvements located within or in close proximity to special flood hazard areas designated on the FIRM's, FHBM's or FBFM's, or located within or in close proximity to other (i.e. non-designated) areas that are subject to flooding, shall be constructed by methods and practices that minimize flood damages. All new construction ~~and substantial improvements~~ shall be designed and adequately anchored to prevent flotation, collapse ~~or~~ and lateral movement of the structure resulting from hydrostatic loads, including the effects of buoyancy.

(b) All new ~~or~~ and replacement water supply systems and sanitary sewage systems constructed in the special flood hazard areas shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters, and all on-site waste disposal systems shall be located so as to avoid impairment of them or contamination during flooding.

(c) All new construction and substantial improvements of residential structures located within or in close proximity to special flood hazard areas designated on the FIRM's, FHBM's or FBFM's, or located within or in close proximity to other (i.e. non-designated) areas that are subject to flooding, shall be designed to have the lowest floor (including basement) elevated to at least the flood protection elevation. ~~level or depth number specified for flood hazard areas unless the county is granted an exception by the Federal Emergency Management Agency (FEMA) for the allowance of basements.~~

~~Additions~~Non-substantial improvements to existing residential structures are allowed to maintain the lowest floor at the flood protection elevation level as originally permitted unless identified by FEMA as a repetitive loss structure, but in no case shall the non-substantial improvement be lower than the current base flood elevation. All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the flood protection elevation and is securely anchored to an adequately anchored foundation system in accordance with the provisions of subsections (a) and (e) of this section.

(d) New construction ~~or~~ and substantial improvement of any commercial, industrial or other nonresidential structure shall:

(1) Have the lowest floor, including basement, elevated to at least the flood protection elevation; or

(2) Together with attendant utility and sanitary facilities, be floodproofed so that below the flood protection elevation the structure is watertight and with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A ~~registered~~ licensed professional engineer or architect shall certify in accordance with section 10-8.203 that the standards of this subsection are satisfied.

(e) All manufactured homes shall be anchored to resist flotation, collapse ~~or~~ and lateral movement by providing ~~over-the-top and frame ties to~~ ground anchors installed in compliance with applicable state and federal ~~guidelines~~ requirements for resisting wind forces.

(f) In the alteration of flood hazard areas, where a development encompasses a portion of any special flood hazard area and requires the placement of fill, excavation, dredging or otherwise alters the physical condition of the floodplain, the following information, certified by a ~~registered~~ licensed professional engineer, shall be submitted to the county:

(1) Typical cross-section of the existing and proposed channel and special cross-sections of the areas depicting the floodway and floodplain boundary.

(2) Plan view of the channel showing the location of all features affecting the flow.

(3) Hydrographs, flood-routing calculations and step-backwater ~~curve~~ profiles of the proposed waterway corresponding to a storm recurrence interval of 100 years.

(4) Engineering evaluation of all potential increases in flood hazards to the adjacent upstream and downstream private or public lands and facilities located thereon.

(5) Provisions for eliminating any and all adverse impacts on such lands and facilities at no public cost.

(6) Plans for compliance with ~~Article IV, Division 3, Subdivisions 1 and 2~~

sections 10-4.301 through 10-4.329.

(g) An evacuation plan indicating alternative vehicular access and escape routes shall be filed with the county office of disaster preparedness for manufactured home parks and manufactured home subdivisions located within zone A as designated on the FIRM's, FHBM's or FBFM's.

(h) Electrical, heating, ventilation, water well casing, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(i) All construction below the base flood elevation shall be constructed with materials resistant to flood damage. For all new construction ~~and substantial improvements,~~ with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a ~~registered~~ licensed professional engineer or architect or must meet or exceed the following minimum criteria: 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 shall be provided. The bottom of all openings shall be no higher than one foot above adjacent grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(j) For areas outside FIRM designated special flood hazard areas, ~~In order~~ to prevent flood damage due to overland sheet flow, all newly constructed detached single family, duplex, triplex and quadraplex structures and substantial improvements of structures, regardless of their location in or outside of an area subject to flooding, shall have their lowest ~~finished~~ floor elevation a minimum of one foot higher than the finished grade elevation at a distance of five feet from the foundation. An exception to this requirement can be granted if it is demonstrated to the satisfaction of the County Administrator or designee that no adverse flooding impacts will occur to the structure.

(k) The site shall be graded to prevent overland sheetflow from entering into garages and basements. Adequate drainage paths around structures on slopes are required to guide floodwaters around and away from proposed structures.

(l) All applicants for development orders pertaining to any parcel on which a structure is currently located partially or wholly within a 100-year floodplain, or on which a structure will be constructed, erected, installed, or placed partially or wholly within a 100-year floodplain, or on which any part of a vehicular use area is partially or wholly within the 100-year floodplain, as determined by a flood certificate prepared in accordance with Section 10-8.202~~-or, if exempt therefrom, as determined by the County Administrator or designee~~, must comply with the following requirements unless exempt therefrom below:

(1) The applicant must obtain from every owner of such parcel a duly executed and recorded release and waiver in a form approved by the County Administrator or designee, unless such form already encumbers the parcel, releasing and waiving any and all past, present, and future claims against the County for any damages arising from the flooding of such parcel and agreeing to not seek any relief from such flooding under the County's Flooded Property Acquisition and Management Program nor from any other such disaster relief programs funded by the County, unless such relief to the applicant is otherwise approved by the Board.

(2) If the development order includes a permit for the erection of a ~~mobile~~ manufactured home owned by someone other than the owner of such parcel, the applicant shall also obtain from every owner of such ~~mobile~~ manufactured home a duly executed release and waiver in a form approved by the County Administrator or designee releasing and waiving any and all past, present, and future claims against the County for damages arising from the flooding of such parcel and agreeing not to seek any relief from such flooding under the County's Flooded Property Acquisition and Management Program nor from any other such disaster relief programs funded by the County, unless such relief to the applicant is otherwise approved by the Board.

(3) ~~Even if the location of an existing or proposed structure lies outside of the 100-year floodplain, the applicant must still obtain the release and waiver if any part of a vehicular use area on the parcel is partially or wholly within the 100-year floodplain.~~

~~(4)~~ If the County's geographical information system (GIS) contour data is used to approximate the floodplain location instead of survey data, then the release and waiver will be required if the location of an existing or proposed structure, or any part of a vehicular use area, is within 20 feet of the floodplain delineated by using the contour data, unless determined otherwise by the County Administrator or designee.

(4) An exemption to all of the requirements of subsection (l) may be granted by the County Administrator or designee if it is satisfactorily demonstrated that no adverse flooding impacts will occur to the structure and the vehicular use area will allow for continuous access to the structure.

(m) Travel trailers and recreational vehicles placed on sites within a floodplain shall be on the site for fewer than 180 consecutive days or be fully licensed and ready for highway use. Travel trailers and recreational vehicles are ready for highway use if they

are on their wheels or jacking system, are attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.

Sec. 10-8.302. Standards for construction in regulated floodways.

The following provisions shall apply for construction in regulated floodways:

(1) The placing of fill on any property within a regulated floodway as identified on the FIRM's, FHBM's or FBFM's shall be prohibited unless in accordance with subsection's (2) through (5) below.

(2) All development is prohibited unless certification by a ~~registered~~ licensed professional engineer is provided demonstrating that the development will not result in any increase in flood levels or hazardous velocities of stormwater during the occurrence of the base flood discharge. No new construction, substantial improvements, or other development shall be permitted within a floodway on the FIRM, unless it is demonstrated 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 at any point within the community. An exception to the requirements of this subsection regarding increases to flood levels is allowed as stated in Subsection 10-8.302(4). The information required in Subsection 10-8.301(f) shall be submitted.

(3) Upon such certification, all development shall comply with section 10-8.301 and this section.

(4) Approval may be provided for certain development in Zones A1-30, AE, and AH on the community's FIRM which increase the water surface elevation of the base flood, provided that the community first applies for a conditional FIRM revision, fulfills the requirements for such a revision as established under the provisions in §65.12 Code of Federal Regulations and receives approval of the County Administrator or designee.

(5) No residential homes shall be placed in a floodway.

SECTION 3. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, as of the effective date of this Ordinance, except to the extent of any conflicts with the Tallahassee-Leon County Comprehensive Plan, as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the Comprehensive Plan.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective date. This ordinance shall be effective according to law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 19th day of January, 2010.

LEON COUNTY, FLORIDA

BY: _____
BOB RACKLEFF, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY: John Stott, Deputy Clerk

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM (CODRS) CODING FORM

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (850)245-6270 or Suncom 205-6270.

COUNTY: (LEON) **COUNTY ORDINANCE #** (10 -) (e.g., 00-001)

PRIMARY KEYFIELD DESCRIPTOR: (FLOOD PROTECTION)

SECONDARY KEYFIELD DESCRIPTOR: ( )

OTHER KEYFIELD DESCRIPTOR: ( )

ORDINANCE DESCRIPTION: (FLOODPLAIN MANAGEMENT) (25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: (10-1.101) **AMENDMENT # 2:** (10-8.201)

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: ( ) **REPEAL # 3:** ( )

REPEAL # 2: ( ) **REPEAL # 4:** ( )

(Others repealed: List all that apply): _____

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: ( )

KEYFIELD 1 CODE: ( ) KEYFIELD 2 CODE: ( )

KEYFIELD 3 CODE: ( ) Rev. 4/10/01