

ARTICLE 3. GENERAL PROVISIONS.

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.

This ordinance shall apply to all areas of special flood hazard (SFHA) areas within jurisdiction of the Board of Supervisors of Lamar County.

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled “The Flood Insurance Study (FIS) for Lamar County, Mississippi,” dated March 2, 2010 with the accompanying Flood Insurance Rate Map(s) (FIRM) (multiple panels) Index No. 28073IND0A, and other supporting data, along with the New Countywide Digital Flood Insurance Rate Maps are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at: the Lamar County Planning Department.

SECTION C. USE OF PRELIMINARY FLOOD HAZARD DATA.

When Flood Insurance Studies and Preliminary Flood Insurance Rate Maps have been provided by FEMA:

- (1) Prior to the issuance of a Letter of Final Determination (LFD) by FEMA, the use of the preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in the effective flood hazard data provided by FEMA. Such preliminary data may be subject to revision through valid appeals.
- (2) Upon the issuance of a Letter of Final Determination (LFD) by FEMA, the revised flood hazard data shall be used and replace all previously effective flood hazard data provided by FEMA for the purposes of administrating these regulations.

Where adopted regulatory standards conflict, the more stringent base flood elevation shall prevail. Preliminary FIS data may be subject to change by a valid appeal.

SECTION D. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

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

SECTION E. COMPLIANCE.

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

SECTION F. ABROGATION AND GREATER RESTRICTIONS.

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

SECTION G. INTERPRETATION.

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

- (1) Considered as minimum requirements;

- (2) Liberally construed in favor of the governing body, and;
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION H. STANDARDS FOR X ZONES (SHADED/UNSHADED).

These areas are considered to be low to moderate risk flood zones and are located outside the community's delineated special flood hazard area and include the following:

- (1) Areas outside the one percent chance flood zone, but within the 0.2 percent chance flood zone, as determined by a detailed study;
- (2) Areas outside the 0.2 percent chance flood zone as determined by a detailed study, and;
- (3) Areas that have not yet been studied.

The community reserves the right to require further studies for any development within its jurisdiction, if there is evidence that a potential flood hazard exists. Studies can be used to designate community flood hazard areas. Such evidence may include but shall not be limited to:

- (1) Eyewitness reports of historic flooding or other reports of historic flooding deemed credible by the community;
- (2) Geologic features observed that resemble floodplains (such as flat areas along streams);
- (3) Proximity to manmade or natural constrictions such as road crossings that can cause backwater effects, and;
- (4) Drainage basin characteristics such as drainage area, slope, percent impervious cover, land use, etc.

SECTION I. REPETITIVE LOSS STRUCTURES.

The community may declare any existing structure as a repetitive loss structure as required to qualify the structure for increased cost of compliance (ICC) benefits allowed by a National Flood Insurance Program flood policy claim. To be declared a repetitive loss structure, the following conditions must be met:

- (1) The structure must have a flood insurance policy that includes the increased cost of compliance coverage;
- (2) The structure must have been flooded twice during a ten-year period with each flood event causing damage for which the repair cost equaled or exceeded 25% of the market value of the structure, and;
- (3) The owner, or representative, shall request the declaration in writing and provide supporting documentation to show that the above requirements have been met.

SECTION J. WARNING AND DISCLAIMER OF LIABILITY.

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

SECTION K. ENFORCEMENT, PENALTIES, AND VIOLATIONS.

Any action or inaction which violates the provisions of this ordinance or permit shall be subject to the enforcement actions outlined in Article 3. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

- (1) Notice of Violation. If the community determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
 - a.) The name and address of the owner or the applicant or the responsible person;
 - b.) The address or other description of the site upon which the violation is occurring;
 - c.) A statement specifying the nature of the violation;
 - d.) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
 - e.) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;
 - f.) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within thirty days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hour notice shall be sufficient).

- (2) Penalties. In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the community shall first notify the applicant or other responsible person in writing of its intended action, and shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the community may take any one or more of the following actions or impose any one or more of the following penalties:
 - a.) Civil penalties. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100 per day, per offense, and in addition, shall pay all costs and expenses involved in the case. Each act of violation and each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as are necessary to prevent or remedy any violation.

- (3) Administrative appeal; judicial review. Any person receiving a notice of violation may appeal the determination of the community, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the community's rules and regulations, or the issuance of a notice of bond forfeiture.

The notice of appeal must be in writing and must be received within ten days from the date of the notice of violation. A hearing on the appeal shall take place within thirty days from the date of receipt of the notice of appeal by the Floodplain Administrator.

All appeals shall be heard and decided by the community's designated Appeal Board, which shall include the Board of Supervisors of Lamar County, or their designees. The Appeal Board shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the community's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. The decision of the Appeal Board shall be final.

- (4) **Judicial review.** Any person aggrieved by a decision or order of the community, after exhausting his administrative remedies, shall have the right to appeal de novo to the *Lamar County Chancery Court*.

ARTICLE 4. ADMINISTRATION.

SECTION A. DESIGNATION OF FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR.

The Board of Supervisors of Lamar County hereby appoints the Floodplain Administrator or other delegated, designated, or qualified community official to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator and/or the administrator.

SECTION B. PERMIT PROCEDURES.

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

- (1) Application Stage.
- a.) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings, which will be submitted on a FEMA Form 81-31 (Elevation Certificate) by a state of Mississippi registered engineer or surveyor;
 - b.) Elevation in relation to mean sea level to which any non-residential building in an A Zone will be floodproofed;
 - c.) Certificate from a state of Mississippi registered professional engineer or architect that the non-residential flood-proofed building will meet the floodproofing criteria in Article 4, Section B (2), Article 5, Section B (2) and Section D (2);
 - d.) No floodplain development permit can be issued to any mobile, modular, or permanently constructed residence, building or facility unless the owner, lessee, or developer obtains a Notice of Intent from the Mississippi State Health Department, pursuant to the MS Individual On-Site Wastewater Disposal System Law (2009), for a recommendation of a sewage system or Proof of Compliance from the proper Sewer and Water District;
 - e.) Description of the extent to which any watercourse will be altered or relocated as result of proposed development.