



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2018-531

Date of Reading and Adoption: December 10, 2018

At the meeting of the Lilburn City Council held at 340 Main Street, Lilburn, Georgia.

**AN ORDINANCE TO AMEND CHAPTER 109, ENVIRONMENT, ARTICLE III
“FLOODPLAIN MANAGMENT AND FLOOD DAMAGE PREVETION” OF THE
CODE OF ORDINANCES OF THE CITY OF LILBURN; TO REPEAL CONFLICTING
ORDINANCES; TO PROVIDE FOR AND EFFECTIVE DATE; AND FOR OTHER
PURPOSES.**

THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN GEORGIA, HEREBY ORDAIN THAT CHAPTER 109, ENVIRONMENT, ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN SHALL BE REPEALED AND REPLACED WITH THE ATTACHED:

**ARTICLE III. – FLOODPLAIN MANAGEMENT/FLOOD DAMAGE PREVENTION ORDINANCE
DIVISION 1. Secs. 109-52 - 109-115**

BE IT FURTHER ORDAINED that this ordinance becomes effective **January 1, 2019**.

BE IT FURTHER ORDAINED that all regulations or parts of regulations in conflict with this Ordinance are hereby rescinded to the extent of said conflict.

SO ORDAINED this the 10th day of December, 2018.

Johnny D. Crist, Mayor
City of Lilburn

ATTEST:

Melissa L. Penate, City Clerk
(Seal)

ARTICLE III. - FLOODPLAIN MANAGEMENT/FLOOD DAMAGE PREVENTION ORDINANCE^[3]

Footnotes:

--- (3) ---

Editor's note— Ord. No. 267-07, adopted June 11, 2007, repealed the former Art. III, §§ 109-52—109-95, and enacted a new Art. III as set out herein. The former Art. III pertained to "Floodplain management/flood damage prevention" and derived from Ord. No. 210-06, 9-11-2006.

DIVISION 1. - PURPOSE AND DEFINITIONS

Sec. 109-52. - Findings.

It is hereby determined that:

- (1) The flood hazard areas of the city are subject to periodic inundation which may result 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) Flood hazard areas can serve important stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed or minimally disturbed areas;
- (3) Effective floodplain management and flood hazard protection activities can:
 - a. Protect human life and health;
 - b. Minimize damage to private property;
 - c. Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and
 - d. Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public; and,
- (4) Article IX, section II of the State Constitution and section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city does ordain this article and establishes this set of floodplain management and flood hazard reduction policies for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage are in the public interest and will minimize threats to public health and safety, as well as to private and public property.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-53. - Requirements.

The requirements of this article shall apply to all Areas of Special Flood Hazard within the jurisdiction of the City of Lilburn,

(Ord. No. 267-07, 6-11-2007)

Sec. 109-54. - Statement of purpose.

It is the purpose of this article to protect, maintain, and enhance the public health, safety, environment, and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, streambank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed by:

- (1) Restricting or prohibiting uses activities which are dangerous to health, safety, and property due to flooding or erosion hazards or which increase flood heights or velocities, or erosion;

- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction or renovation;
- (3) **Limiting** the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Controlling filling, grading, dredging and other development which may increase erosion or flood damage;
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (6) Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-55. - Special definitions.

The following definitions of words or phrases apply only to their use and application within the context of this article, and are included herein because of their special nature. For more common or general definitions, see the city development regulations.

Addition. Any walled and roofed expansion to the perimeter or height of a building ~~in which the addition is connected by a common loadbearing wall other than a four-hour firewall. Any walled and roofed addition which is connected by a four-hour fire wall or is separated by independent perimeter loadbearing walls is new construction.~~

Appeal. A request for a review of the city's interpretation of any provision of this article.

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

Area of shallow flooding. A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and intermediate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood hazard. The land area subject to a one percent or greater chance of flooding in a given year. This includes all floodplain and flood prone areas at or below the base flood elevation designated as Zones A, A1-30, A-99, AE, AO, AH, and AR on a community's Flood Insurance Rate map (FIRM).

Accessory Structure or Facility. A structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the primary structure.

~~*Base flood.* The flood having a one percent chance of being equaled or exceeded in any given year; i.e., the "100-year flood."~~

Base Flood. The flood having a one percent or greater chance of being equaled or exceeded in any given year, also known as the 100-year flood.

Base flood elevation. The highest water surface elevation anticipated at any given ~~point~~ location during the base flood.

Basement. That portion of a building having its floor subgrade (below ground level) along all or a majority of its perimeter length, and includes the term "cellar."

Breakaway wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

Building. Has same meaning as "structure". Any structure built for support, shelter, or enclosure for any occupancy or storage.

Compensation. The replacement of flood storage capacity lost as the result of floodplain encroachment.

Department. The City of Lilburn.

Development.

- (1) (verb) All activities associated with manmade changes to improved or unimproved real estate and the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy or habitation, other than for agricultural purposes devoted strictly to the cultivation of the land, dairying or animal husbandry. Such activities include but are not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations, storage of equipment or materials, water or sewer mains, storm water drainage facilities, sidewalks or other structures permanently placed on or in the property.
- (2) (noun) Where appropriate to the context, the term "development" also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as in interrelated whole, whether simultaneously or in phases.

Development regulations. The development regulations of the city which are administered by the city manager or his/[her] duly authorized designee.

Elevated building. A non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter-walls, pilings, columns (posts and piers), shear walls, or breakaway walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Existing construction. Any structure for which the "start of construction" commenced before June 18, 1975.

Existing manufactured home park or subdivision. 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 April 9, 1975.

Expansion to an existing manufactured home park or subdivision. 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.

Federal Emergency Management Agency (FEMA). The federal agency which administers the National Flood Insurance Program. This agency prepares, revises and distributes the maps and studies referenced in this article.

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

- (1) The overflow of inland waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

~~*Flood boundary and floodway map.* The official map issued by the Federal Emergency Management Agency, where the boundaries of the floodways are shown and the areas of special flood hazard have been defined as zone "A".~~

~~*Flood Insurance Rate Map (FIRM).* An official map of a community, issued by FEMA, delineating the areas of special flood hazard and/or risk premium zones applicable to the community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the applicable risk premium zones.~~

~~*Flood Insurance Study or "FIS".* The official report provided by FEMA providing an examination, evaluation, and determination of flood hazards and corresponding flood profiles and water surface elevations of the base flood. the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.~~

Flood-prone area or Floodplain. Any land area susceptible subject to flooding.

Flood-proofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway or Regulatory Floodway. The channel of a river, stream, or other watercourse and the adjacent ~~land~~-areas that must be reserved in order to:

- (1) Discharge the base flood without cumulatively increasing the water surface elevation more than one foot above the base flood elevation; or
- (2) Discharge the future conditions flood without cumulatively increasing the water surface elevation more than one foot above the future conditions flood elevation. The more restrictive shall apply.

Floor. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Functionally dependent use. A use which cannot ~~perform be used for~~ its intended purpose unless it is located or carried out in close proximity to water.

Future conditions flood. This flood ~~standard is equal to or higher than the base flood. The flood~~ having a one percent chance of being equaled or exceeded in any given year based on future conditions hydrology. Also known as the 100-year future flood.

Future conditions flood elevation. ~~This flood standard is equal to or higher than the base flood elevations.~~ The highest water surface elevation anticipated at any given point location during the future conditions flood.

Future conditions floodplain. Any land area susceptible to flooding by the future-conditions flood.

Future conditions hydrology. The flood discharges associated with the projected drainage basin being fully developed as shown on the currently adopted future land use plan. Only detention that can be shown that it will remain ~~(i.e. owned by the county)~~ and is large enough to be included in the hydrograph routings shall be considered when determining the flood peak. No consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation shall be given.

Highest adjacent grade. The highest natural (original) elevation of the ground surface, prior to construction, next to the proposed foundation of a structure.

Historic structure. Any structure that is;

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

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

Manufactured home. A structure (or building), 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 mobile homes, park trailers, travel trailers, and similar transportable structures, regardless of the date of manufacture, placed on a site for 180 consecutive days or longer and intended to be improved property. The term does not include recreational vehicle.

Mean sea level (MSL). The datum used to which base flood elevations shown on a community's Flood Insurance Rate map (FIRM) are referenced. 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 article, the term is synonymous with National Geodetic Vertical Datum (NGVD) and/or North American Vertical Datum (NAVD) of 1988.

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

New construction. Any structure for which the "start of construction" commenced on or after the effective date of this article, June 18, 1975, and includes any subsequent improvements to the structure.

New manufactured home park or subdivision. 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 of the pouring of concrete pads) is completed on or after June 18, 1975.

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

Owner. A person having a majority fee simple interest in real property, or a majority interest through any other form of ownership. The legal or beneficial owner of a site, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

~~*Permit.*~~ The permit issued by the department to the applicant which is required prior to undertaking any development activity.

Principal building. A building built to fulfill the primary or predominant purpose for which a lot is occupied and/or used.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Repetitive loss. Flood-related damages sustained by a structure on two separate occasions during a ten-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.

Site. The parcel of land being developed or the portion thereof on which the development project is located.

Start of Construction. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start of construction means either the first placement of permanent construction of the structure on the site, such as pouring of slabs or footings, the installations of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Special flood hazard area. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This includes all floodplain and flood-prone areas at or below the base flood elevation (including A, A1-30, A-99, AE, AO, AH, and AR on the FHBM or the FIRM), all flood-prone areas at or below the future conditions flood elevation, and all other flood-prone areas as referenced in section 109-56. All streams with a drainage area of 100 acres or greater shall have the area of special flood hazard delineated. In the absence of official designation by the Federal Emergency Management Agency, special flood hazard areas shall be those designated by the local community and referenced in section 109-56.

Start of construction. Includes substantial improvement, and means the date the permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a 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; or, the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or not part of the main structure (Note: accessory structures are not exempt from any article 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. A walled and roofed building that is principally above ground, or a manufactured home, or a gas or liquid storage tank.

Subdivision.

- (1) (verb) Any division or re-division of a lot, tract or parcel of land, regardless of its existing or future use, resulting in 1 or more new lots, tracts or parcels. The term, "subdivision" shall mean the act or process of dividing property. Lots that do not abut or are not directly across a public street from other subdivided lots shall be considered a separate distinct subdivision with a separate name.
- (2) (noun) Where appropriate to the context, the term "subdivision" also may be used in reference to the aggregate of all lots held in common ownership at the time of division.

Substantial damage. 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

Substantial improvement. Any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during a ten-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the structure means: 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 "repetitive loss" or "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 structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include 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 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. 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. A grant of relief from the requirements of this article that permits construction in a manner otherwise prohibited by this article.

Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

Watercourse. A channel with a defined bed and banks, including lakes, ponds, and marshes.

(Ord. No. 267-07, 6-11-2007)

DIVISION 2. - GENERAL PROVISIONS

Sec. 109-56. - Flood ~~A~~area ~~M~~maps and ~~S~~studies.

(a) For the purposes of defining and determining "Area of Special Flood Hazard", "Area of Future-Conditions Flood Hazard", "Areas of Shallow Flooding", "Base Flood Elevations", "Floodplains", "Floodways", "Future-Conditions Floodplains", potential flood hazard or risk categories as shown on FIRM maps, and other terms used in Chapter 109, the following documents and sources may be used for such purposes and are adopted by reference thereto: ~~this article, the following are adopted:~~

(1) The flood insurance study (FIS), dated September 29, 2006, or most current study, with accompanying maps and other supporting data and any revision thereto, ~~are hereby adopted by reference. For those land areas acquired by a municipality through annexation, the current effective FIS and data for unincorporated county, dated September 29, 2006, with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference.~~

(b) Other studies which may be relied upon for establishment of the base flood elevation (BFE) or delineation of the base or one percent (100-year) floodplain and flood-proned areas includeing:

(1) Any flood or flood related study conducted by the United States Army Corps of Engineers or the United States Geological Survey or any other local, state, or federal Agency applicable to the city.

(2) Any base flood study conducted by a licensed ~~authored by a currently registered~~ professional engineer in the Sstate of Georgia which has been prepared utilizing FEMA approved methodology and approved by the city.

(c) Other studies which may be relied upon for establishment of the future conditions flood elevation or delineation of the future conditions floodplain and flood-proned ~~includ~~areas includeing:

(1) Any flood or flood related study conducted by the United States Army Corps of Engineers or the United States Geological Survey or any other local, state, or federal agency applicable to the city.

(2) Any future conditions flood study conducted by a licensed ~~authored by a currently registered~~ professional engineer in the Sstate of Georgia which has been prepared utilizing FEMA approved methodology and approved by the city.

(d) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the following location:

City of Lilburn Office of City Clerk

Calvin Fitchett Municipal Complex

340.76 Main Street

Lilburn, GA 30047.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-57. - Areas Rregulated.

This article shall be applicable to all special flood hazard areas within the city limits.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-58. - Interpretation.

(a) In the interpretation and application of this article all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the city; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(b) Where interpretation is needed as to the exact location of floodplain or floodway boundaries (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the city shall make the necessary interpretation based on data submitted by the applicant. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(c) Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-59. - Drainage Easement Established.

On behalf of the public, a drainage easement is hereby established for the sole purpose of preserving and protecting the free flow of surface waters inside the future conditions flood contour elevations and along all watercourses. Where debris has accumulated in such a manner as would increase the need for flood protection, raise the flood level, or increase the risk of hazardous inundation of adjacent communities or jurisdictions, the city is hereby authorized to enter upon such watercourse and clear or remove such debris or obstructions as are hazardous to the public safety. The cost thereof shall be charged to the owner of the property where such debris and/or obstruction was generated. Where erosion has occurred in such a manner as would endanger a building or a structure, the city is hereby authorized to enter upon such watercourse and stabilize the channel for public safety. The cost thereof shall be charged to the owner of the property where the erosion has occurred and/or caused the erosion.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-60. - Establishment of Development Permit.

A development permit shall be required in conformance with the provisions of the development regulations prior to the commencement of any clearing, grading, or development activities adjacent to, within, or affecting a future conditions floodplain.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-61. - Compliance.

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

(Ord. No. 267-07, 6-11-2007)

Sec. 109-62. – Compatibility with Other Regulations.

This Article This article is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this article this article are in addition to the requirements of any other ordinance, rule, regulation or

other provision of law, and where any provision of ~~this article~~ ~~this article~~ imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-63. - Warning and disclaimer of liability.

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 rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the special flood hazard or flood-prone areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made there under.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-64. - ~~Designation of article administrator.~~ **Duties and Responsibilities of Ordinance Administrator.**

The city manager or the city manager's designee is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-65. - Duties and responsibilities of article administrator.

The duties of the city manager or city manager's designee shall include, but shall not be limited to:

- (1) Review all development applications and permits to assure that the requirements of this article have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;
- (2) Require that copies of all necessary permits from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, be provided and maintained on file;
- (3) When base flood elevation data or floodway data have not been provided, then the city manager or city manager's designee shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources in order to meet the provisions of sections 109-65 and 109-76;
- (4) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures;
- (5) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed;
- (6) When flood-proofing is utilized for a nonresidential structure, the city manager or city manager's designee shall **review the design and operational maintenance plan and obtain certification of design** from a registered professional engineer or architect;
- (7) Notify affected adjacent communities and the **Georgia Department of Natural Resources (GA DNR)** prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (8) Where interpretation is needed as to the exact location of boundaries of the special flood hazard area (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the city manager or city manager's 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 article. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; ~~and,~~

(9) All records pertaining to the provisions of this article shall be maintained in the office of the city manager or city manager's designee and shall be open for public inspection.

(10) Coordinate all FIRM revisions with GA DNR and FEMA.

(11) Review variance applications.

(Ord. No. 267-07, 6-11-2007)

DIVISION 3. - ADMINISTRATION

Sec. 109-66. - ~~General P~~ermit ~~Requirements and P~~rocedures.

An application for a development permit on any property where a special flood hazard area is located or is proposed to be altered or disturbed in any way shall be made to the department on appropriate forms prior to any development activities. The application shall include, but not be limited to, plans drawn to scale of the property showing the floodplain, floodway and the nature, location, dimensions, and elevations of existing or proposed structures, fill, storage of materials, and drainage facilities.

(a) No owner or developer shall perform any development activity on a site where an Area of Special Flood Hazard or Area of Future-Conditions Flood hazard is located without first meeting the requirements of this article prior to commencing the proposed activity.

(b) Any land owner or developer desiring a permit for development activity shall submit to the city a permit application on a form provided for that purpose.

(c) No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this article.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-67. - Floodway ~~e~~ncroachments.

(a) *Application procedure.*

(1) An application for a development permit which proposes any encroachment into or alteration of a floodway shall require submittal to the city complete plans and engineering calculations as required by this article for "no rise" certification.

(2) The city shall review and authorize such floodway encroachments prior to the issuance of a development permit and shall obtain from the applicant an engineering "no-rise" certification signed by a professional engineer stating that the proposed development will not create any change to the pre-project base flood elevations, floodway elevations, or floodway widths.

(3) If the applicant proposes to revise the floodway boundaries or base flood elevations, no permit authorizing an encroachment into or the alteration of the floodway shall be issued by the city until an affirmative conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable, is issued and "no rise" certification is approved by the city.

(4) An application for a map revision shall be submitted first to the city. As-built plans and calculations shall be required to be provided to the department by the applicant at the time of completion of the floodway encroachment.

(5) Payment of any review fees associated with the review and approval of the encroachment shall be the responsibility of the applicant. Final plats or certificates of occupancy shall not be issued

by the city until an affirmative Letter of Mmap Revision (LOMR) or Letter of Mmap Aamendment (LOMA), whichever is applicable, is issued.

(b) Flood Levels Resulting From Floodway Encroachments:

Located within Areas of Special Flood hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris, or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without an increase in flood heights. Therefore, the following shall apply:

- (1) Encroachments are prohibited, including but not limited to fill, new construction, substantial improvements, and other developments within a regulatory floodway except for activities specifically allowed in (2) below.
- (2) Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted 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 to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
- (3) In areas where the floodplain has been established but the base flood elevation (BFE) and/or the floodway has not been established on FIS maps, no encroachments into areas of special flood hazard, including fill or structures, shall be authorized unless certification by a registered professional engineer is provided to the city city department demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the floodplain more than 0.01 foot at any point. The study shall be submitted as a revision/amendment to the FIS maps showing the BFE and the floodway. Approval of the revision/amendment must be received before the final plat can be approved or a certificate of occupancy can be issued.
- (4) In areas beyond the limits of study on the flood boundary and floodways maps or FIRM, which contains a watercourse, and have greater than 100 acres of surface drainage area above the property, no increase in flood elevations off-site shall be authorized.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-68. - Other Permits or Approvals.

- (a) Copies of any additional federal or state permits or approvals as may be required by the Army Corps of Engineers, Georgia Department of Natural Resources, state department of natural resources, FEMA, or others shall be provided by the developer upon their approval and maintained on file at the city.
- (b) The city shall notify adjacent communities and the Georgia Department of Natural Resources state 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).
- ~~(c) No owner or developer shall perform any development activity on a site where an Area of Special Flood Hazard or Area of Future-Conditions Flood hazard is located without first meeting the requirements of this article prior to commencing the proposed activity.~~
- ~~(d) Unless specifically excluded by this article, any land owner or developer desiring a permit for development activity shall submit to the city a permit application on a form provided for that purpose.~~
- ~~(e) No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this article.~~

(Ord. No. 267-07, 6-11-2007)

DIVISION 4. - STANDARDS FOR DEVELOPMENT

Sec. 109-69. - Definition of **F**floodplain **B**boundaries.

- (a) Studied "A" zones, identified in the city flood insurance study, shall be used to establish base flood elevations whenever available.
- (b) For **all streams with a drainage area of 100 acres or greater**, the base flood elevation and future conditions flood elevation shall be determined from the FIRM and FIS or provided by the department. If base flood elevation and future conditions flood elevation data is not available, then is shall be determined by a registered professional using FEMA approved methodology. The method of analysis shall be subject to the approval of the city manager or city manager's designee.
- (c) The boundaries or limits of the floodplain shall be within 0.5 feet vertical accuracy on the development plan containing existing topographic information.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-70. - Definition of **F**floodway boundaries.

- (a) The width of a floodway shall be determined from the FIS or FEMA approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway shall be provided by the department. If floodway data is not available from the city, then it shall be determined by a registered professional engineer using a method approved by FEMA and the city.
- (b) Following a pre-design conference with the city, the boundaries or limits of the floodway shall be shown on the development plan containing existing topographic information.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-71. - General standards.

- (a) **No development shall be allowed within any Area of Special Flood Hazard or Area of Future-Conditions Flood Hazard** that could result in any of the following:
 - (1) Raise the base flood or future conditions flood elevation equal to or more than 0.01 foot.
 - (2) Reduce the base flood or future conditions flood storage capacity.
 - (3) Change the flow characteristics of the waters of the base flood or future conditions flood as they pass both the upstream and the downstream boundaries of the property. Verification shall be provided via a step-backwater analysis.
 - (4) Create hazardous or erosion-producing velocities, or result in excessive sedimentation.
- (b) **Any development within any Area of Special Flood Hazard or Area of Future-conditions FloodConditions Flood Hazard allowed under in this article -700-30.3 shall also meet the following conditions:**
 - (1) **Compensation shall occur either within the boundaries of ownership of the property being developed, or within a permanent, recorded flood control easement (which shall be a part of the Departmental record), and shall be within a reasonable proximity to the location of the encroachment. Acceptable means of providing required compensation include: lowering of natural ground elevations within the floodplain; or, lowering of adjoining land areas to create additional floodplain; or raising of the future conditions flood elevation within the boundaries of ownership of the property being developed. All cut areas are to be graded to a slope of no less than two percent. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from widening or relocation of the stream channel. A step-backwater analysis will be required to verify no rise conditions, flood storage volumes, and flow characteristics;**
 - (2) **Cut areas shall be stabilized to a slope of no less than 2.0 percent;**

(3) Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;

(4) All proposed development shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage

(c) Any significant changes or revisions to the flood data adopted herein ~~and shown on the city FIRM~~ shall be submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the city using the community consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys for a final letter of map revision (LOMR). A letter of map revision (LOMR) or letter of map amendment (LOMA) must be issued before the final plat can be approved or a certificate of occupancy can be issued. Significant changes or revisions shall be defined as any change to the city FIRM easily observed when plotted at a scale of 1" = 500'. The changes or revisions may be due to but are not limited to more current and/or superior topographic information or compensatory cut and fill grading done as a part of the development.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-72. - Engineering Study Rrequirements.

An engineering study is required (as appropriate to the proposed development activities on the site) when a base flood or future conditions floodplain is located on the property proposed for development. This study shall be prepared by a currently registered state professional engineer and made a part of the application for a development permit. This information shall be submitted to and approved by the department prior to the approval of any permit that would authorize the development.

- (1) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development.
- (2) Any report that must be submitted for review, in accordance with this article, must use a step-backwater analysis approved by the department. Cross sections (which may be supplemented by the applicant) and flow information from the existing FIS will be obtained whenever available. Where applicable, computations will be shown duplicating FIS results and then computations will be rerun with the proposed modifications to determine the new base flood and future conditions flood profiles.
- (3) Floodplain storage calculations based on cross sections (at least one every 100 feet) showing existing and proposed floodplain conditions must be provided to show that future conditions floodplain storage capacity will not be diminished by the development.
- (4) If changes to the base flood or future conditions flood elevation are proposed, profiles of the channel showing the existing and proposed base flood and future conditions flood elevations must be provided.
- (5) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future conditions floodplain encroachments.
- (6) The floodway shall be determined when any encroachment in the floodplain is proposed or a detailed study is performed to determine flood profiles.
- (7) Detailed flood studies in areas where the floodplain has been established but the base flood elevation (BFE) and/or the floodway has not been established and in areas beyond the limits of study on the FIRM, which may contain a watercourse, and have greater than 100 acres of surface drainage area above the property, shall be submitted showing the base flood elevations, future conditions flood elevations, and the floodway. Approval of the study must be received before the final plat of the affected lots can be approved or a certificate of occupancy can be issued.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-73. - Maintenance requirements.

The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood storage capacity is not diminished. The city may direct the property owner (at no cost to the city) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not, in the opinion of the city pursuant to the approved plans and floodplain report on file with the department, performed satisfactory maintenance.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-74. - Standards for utilities.

- (a) All new and replacement water supply and sanitary sewerage systems shall be designed to minimize or eliminate:
- (1) Infiltration of flood waters into the systems; and
 - (2) Discharges from the systems into flood waters.
- (b) On-site waste disposal systems shall be located outside the floodplain to avoid impairment to them, or contamination from them during flooding.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-75. - ~~Standards for Subdivisions. Floodplain Management Plan, Subdivision Requirements.~~

~~(a) All subdivision proposals shall identify the special flood hazard area and provide base flood elevation data and future conditions flood elevation data;~~

~~(b) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future conditions floodplain such that encroachments into the future conditions floodplain for residential structures will not be required unless all requirements of sections 109-66, and 109-69 have been met;~~

~~(c) All subdivision plans will provide the elevations of proposed structures in accordance with this article;~~

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

~~(e) All subdivision proposals shall have public utilities and facilities such as water, sanitary sewer, gas, and electrical systems located and constructed to minimize or eliminate infiltration of flood waters, and discharges from the systems into flood waters; and~~

~~(f) All subdivision proposals shall include adequate drainage and stormwater management facilities per the requirements of the development regulations to reduce potential exposure to flood hazards.~~

~~Floodplain Management Plan, Subdivision and Plat Requirements.~~

An application for a development project with any Area of Special Flood Hazard or Area of Future-conditions Flood Hazard located on site shall include a floodplain management/flood damage plan. This plan shall include the following items:

- A. Site plan drawn to scale, which includes but is not limited to:
1. Existing and proposed elevations of the area in question and the nature, location and dimension of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;

2. For all proposed structures, spot ground elevations at the building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;
 3. Proposed locations of water supply, sanitary sewer, and utilities;
 4. Proposed locations of drainage and stormwater management facilities;
 5. Proposed grading plan;
 6. Base flood elevations and future-conditions flood elevations;
 7. Boundaries of the base flood floodplain and future-conditions floodplain;
 8. Location of the floodway, if applicable; and
 9. Certification of the above by a licensed professional engineer or surveyor.
- B. Building and foundation design detail, including but not limited to:
1. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
 2. Design plans certified by a licensed professional engineer or architect for all proposed structure(s).
- C. Hard copies and digital files of computer models, copy of work maps, comparison of pre- and post-development conditions base flood elevations, future-conditions flood elevations, flood protection elevations, Special Flood Hazard Areas and regulatory floodways, flood profiles and all other computations and other information similar to that presented in the FIS;
- D. The approved floodplain management/flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in accordance with approved plans.
- E. All residential lots in a proposed subdivision shall have sufficient buildable area outside of the future conditions floodplain such that encroachments into the future-conditions floodplain for residential structures will not be required unless all requirements of sections 109-66, and 109-69 have been met;
- F. All preliminary plats and site development plans will provide the elevations of proposed structures in accordance with this article, to minimize flood damage.
- G. All construction plans for land development shall show public utilities and facilities such as water, sanitary sewer, gas, and electrical systems located and constructed to minimize or eliminate infiltration of flood waters, and discharges from the systems into flood waters.
- H. All construction plans for land development include adequate drainage and stormwater management facilities per the requirements of [the Gwinnett County Stormwater Management Manual](#) to reduce potential exposure to flood hazards.

(Ord. No. 267-07, 6-11-2007)

DIVISION 5. - STANDARDS FOR BUILDING CONSTRUCTION

Sec. 109-76. - Structures and ~~B~~buildings ~~A~~authorized in the ~~F~~floodplain.

(a) *Residential buildings.*

- (1) ~~New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future conditions floodplain, unless all requirements of sections 109-66, and 109-69 have been met. If all of the requirements of sections 109-66, and 109-69 have been met, all new construction shall have the lowest floor, including basement and~~

~~access to the building, elevated no lower than three feet above the base flood elevation or one foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 109-81.~~

~~(2)~~—*Substantial improvements.* For substantial improvements to **all or part of** existing principal residential buildings, the requirements of sections 109-66 ~~through~~ and 109-69 shall apply and the elevation of the lowest floor, including basement and access to the building, shall be elevated at least three feet above the level of the highest base flood (100-year) elevation adjacent to the building or at least one foot above the future conditions flood elevation whichever is highest. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with section 109-81 titled "Elevated buildings."

(b) *Nonresidential buildings.*

~~(1) *New construction.* New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future conditions floodplain unless all requirements of sections 109-66, and 109-69 have been met. Nonresidential buildings may be authorized by the department to be flood-proofed in lieu of being elevated, in accordance with section 109-81 titled "Elevated buildings", provided that all areas of the building less than one foot above the base flood elevation or below the future conditions flood elevation, whichever is highest, are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify to the city that the standards of this subsection are satisfied and shall provide the city a flood-proofing certificate including flood-proofing level immediately after flood-proofing is completed. The certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. If all of the requirements of sections 109-66, and 109-69 have been met, the elevation of the lowest floor, including basement and access to the building, shall be at least one foot above the level of the highest base flood (100-year) elevation adjacent to the building or at least as high as the future conditions flood elevation whichever is highest. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 109-81.~~

~~(2)~~ *Substantial improvements.* Substantial improvements to **all or any part of** existing principal non-residential buildings may be authorized by the city department to be flood-proofed in lieu of being elevated, in accordance with section 109-81 titled "Elevated buildings", provided that all areas of the building less than one foot above the base flood elevation or below the future conditions flood elevation, whichever is highest, are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify to the city that the standards of this subsection are satisfied and shall provide the city a flood-proofing certificate including flood-proofing level immediately after flood-proofing is completed. The certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The requirements of sections 109-66 ~~through~~ and 109-69 shall apply.

(c) *Accessory and non-habitable buildings and structures.* Accessory and non-habitable structures (i.e., barns, sheds, gazebos, and other similar structures) which are permitted to be located within the limits of the floodplain under the provisions of the zoning resolution shall be designed and constructed of flood resistant materials to pass all floodwater and be anchored to prevent flotation, collapse, or lateral movement of the structure in a manner consistent with this article.

(d) *Drainage structures and impoundments.* Drainage structures and impoundments may be authorized provided they are designed and constructed pursuant to the requirements of the Gwinnett County Stormwater Management Manual development regulations of the city, are approved by the city manager or city manager's designee ~~Director or Director's designee~~, and are consistent with the

requirements of this article. Detention facilities may be located within the future conditions floodplain if the future conditions flood storage capacity is not reduced by the dam and water impounded behind the dam as required in section 109-71(a).

(Ord. No. 267-07, 6-11-2007)

Sec. 109-77. - Structures and **B**uildings **A**uthorized **A**djacent to the **F**uture **C**onditions **F**loodplain.

- (a) *Residential buildings.* For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three feet above the level of the highest base flood (100-year) elevation adjacent to the building or at least one foot above the future conditions flood elevation whichever is highest.
- (b) *Nonresidential buildings.* For new construction or substantial improvement of any principal nonresidential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one foot above the level of the highest base flood (100-year) elevation adjacent to the building or at least as high as the future conditions flood elevation whichever is highest.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-78. - Building **P**ermit **R**equirements.

Prior to the issuance of a building permit for site which contains or is adjacent to the floodplain, a drawing which shows the elevation of the proposed lowest floor of the building, including basement, the limits of the floodplain, and the highest future conditions flood elevation and base flood (100-year) elevation adjacent to the building, must be submitted to the department for approval. If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed building site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence at the building site. Proposed grading encroachments must be shown on this drawing. Elevations shall be referenced to an accurate topographical reference (e.g. a recorded final plat whereon the future conditions and the base floodplain is shown).

(Ord. No. 267-07, 6-11-2007)

Sec. 109-79. - Construction **S**tage.

- (a) ~~Upon completion of construction of the lowest floor of any building permitted under section 109-77 or substantial improvement permitted under section 109-76 above, the permit holder shall submit to the department a certification of the as-built lowest floor elevation. A final elevation certificate shall be provided after completion of construction including grading of the site. For buildings adjacent to the floodplain, this requirement shall not apply, however, if the separation between the lowest floor elevation and the future conditions flood elevation shown on the drawing submitted as part of the permit application is greater than ten feet. Said certification shall be prepared by a land surveyor currently registered in the state.~~ For all new construction and substantial improvements on sites with a floodplain management/ flood damage prevention plan which may be shown on a Residential Drainage Plan, the permit holder shall provide to the department a certified as-built Elevation Certificate including the lowest floor elevation. A final Elevation Certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same.
- (b) Any work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. No framing inspection shall be completed or approved by the department until such required certification is received and verified by the department. 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 the survey or failure to make said corrections required hereby, shall cause to issue a stop-work order for the project.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-80. - Provisions for Flood Hazard Reduction.

All new construction and substantial improvement of structures (residential or non-residential) adjacent to special flood hazard areas shall comply with the following:

- (1) Shall be constructed with materials and utility equipment resistant to flood damage;
- (2) Shall be constructed by methods and practices that minimize flood damage;
- (3) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be constructed or located three (3) above the base flood elevation or one (1) foot above the future conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (4) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (6) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (8) 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; and
- (9) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced.
- (10) Other public utilities such as gas and electric systems shall be located and constructed to avoid impairment to them, or public safety hazards from them, during flooding;
- (11) New development shall include adequate drainage and stormwater management facilities per requirements of the development regulations and Gwinnett County Stormwater Management Manual to reduce exposure to flood hazards;
- (12) When only a portion of a parcel is located within a flood zone or the future-conditions floodplain, all new and substantially improved structures on the parcel shall meet requirements of this article;
- (13) Subdivision proposals and other proposed new development, including manufactured home parks, shall be reasonably safe from flooding:
 - (a) All such proposals shall be consistent with the need to minimize flood damage within the flood prone area;
 - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and
 - (c) Adequate drainage shall be provided to reduce exposure to flood hazards.

(Ord. No. 267-07, 6-11-2007)

| Sec. 109-81. - Elevated **B**uildings.

All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by 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 water.

- (1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - a. 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;
 - b. The bottom of all openings shall be no higher than one foot above grade; and,
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
- (2) So as not to violate the "lowest floor" criteria of this article, 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; and
- (3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(Ord. No. 267-07, 6-11-2007)

| Sec. 109-82. - Building **S**tandards for **R**esidential **S**ingle-lot **D**evelopments on **S**treams **W**ithout **E**stablished **B**ase **F**lood **E**levations and/or **F**loodway (A-zones).

For a residential single-lot development not part of a subdivision that has areas of special flood hazard, where streams exist but no base flood data have been provided (A-zones), the city manager or city manager's designee shall review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a federal, state, local or other source, in order to administer the provisions and standards of this article.

If data are not available from any of these sources, the following provisions shall apply:

- (1) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or 50 feet from the top of the bank of the stream, whichever is greater; and
- (2) In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with section 109-81.

(Ord. No. 267-07, 6-11-2007)

| Sec. 109-83. - Standards for **R**ecreational **V**ehicles.

All recreational vehicles placed on sites must either:

- (1) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its 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

- (2) The recreational vehicle must meet all the requirements for residential buildings including the anchoring and elevation requirements.

(Ord. No. 267-07, 6-11-2007)

DIVISION 6. - APPEAL AND VARIANCE PROCEDURES

Sec. 109-84. ~~---~~ Appeals and Variances.

Appeals from the interpretation or requirements this article shall be made in accordance with the procedures and requirements of this section.

- (1) Requests for variances from the requirements of this article shall be submitted to the city Department of Planning. All such requests shall be heard and decided in accordance with the procedures outlined in the ~~stormwater systems and facilities installation standards and specifications~~ development regulations and Gwinnett County Stormwater Management Manual and as set forth by the section 5-4-1 of the Official Code of Georgia Annotated. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (2) Any person adversely affected by any decision of a request for variance shall have the right to appeal the decision to the Zoning Board of Appeals ~~board of adjustments and appeals~~ in their normal course of business. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-85. - Evaluation of Variance Rquests.

- (a) In passing upon variance applications for relief from the provisions of this article, all technical evaluations, all relevant factors, all standards specified in other sections of this article, and the items listed in the ~~stormwater systems and facilities installation standards and specifications~~ Gwinnett County Stormwater Management Manual shall be considered;
- (b) Upon consideration of the factors listed in the stormwater systems and facilities installation standards and specifications, and the stated purposes of this article, such conditions to the granting of a variance as it deems necessary or appropriate, consistent with the purposes of this article may be attached to the variance;
- (c) Variances shall not be approved within any designated floodway if any increase in flood levels outside the boundaries of ownership of the property being developed or drainage easement during the future conditions or the base flood discharge would result.
- (d) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section 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.
- (e) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as deemed necessary to the consideration of the request.
- (f) Variances shall not be issued "after the fact."

(Ord. No. 267-07, 6-11-2007)

Sec. 109-86. - Historic Structures.

Variances from the requirements of this article may be approved for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, and provided the proposed reconstruction, rehabilitation, or restoration will not result in

the structure losing its historical designation, and provided further that the requirements of section 109-88 herein are met.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-87. - Conditions for Variance Approval.

- (a) Variances shall only be approved upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (b) Variances shall only be issued upon a finding of the following:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship; and
 - (3) A determination that the granting of the 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.
- (c) No variance from the provisions of this article may be approved which would allow a structure or use of land otherwise prohibited in the flood hazard area under the provisions of the zoning resolution.
- (d) Any person to whom a variance is granted shall be given written notice specifying 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.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-88. - Records and Reports.

The city shall maintain the records of all appeal actions by the Board and report any variances to the Federal Emergency Management Agency upon request.

(Ord. No. 267-07, 6-11-2007)

DIVISION 7. - EFFECTIVE DATE, AMENDMENTS, SEVERABILITY, CONFLICTING REGULATIONS

Sec. 109-89. - Effective date.

This article shall be in full force and effect immediately upon the adoption by the mayor and city council, Lilburn, Georgia, and shall apply to any development permit for which an application is received after the effective date of this article.

- (1) Any subdivision or other project for which a development permit has been issued prior to the effective date of this article may, at the developer's option, proceed to completion under the terms of said permit and the regulations of the city in place prior to said effective date.
- (2) Any subdivision or other project for which only a clearing, clearing and grubbing, or grading permit shall have been issued prior to effective date of this article shall be brought into conformance with this article prior to issuance of a development permit.
- (3) Nothing in this article shall be construed to affect the validity of any building permit lawfully issued prior to the effective date of this article.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-90 - Amendments.

This article may be amended from time-to-time by resolution of the city. Such amendments shall be effective as of their date of effective date unless otherwise stated in the adopting resolution.

- (1) Any subdivision or other project for which a development permit has been issued prior to the adoption of an amendment to this article may, at the developer's option, proceed to completion as though no amendment had been approved.
- (2) Any subdivision or other project for which only a clearing, clearing and grubbing, or grading permit shall have been issued prior to adoption of an amendment to this article shall be brought into conformance with the amendment (if applicable) prior to issuance of a development permit.
- (3) No amendment to this article shall be construed to affect the validity of any building permit lawfully issued prior to the adoption of said amendment.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-91. - Severability.

If [the provisions for](#) any section, subsection, sentence, clause, or phrase of this article is for any reason held to be unconstitutional or void, the validity of the remaining portions of this article shall not be affected thereby, it being the intent of the mayor and city council in adopting this article that no portion thereof or provision of the article contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provisions of this article.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-92. - Conflicting ~~R~~regulations.

All regulations or parts of regulations of the city Code of Laws in conflict with this article shall be and the same are hereby repealed in their portions so in conflict. Provided, however, that it is not the intent of this article to repeal or affect any law of the state of Georgia, or any Code or ordinance of the city adopted as a requirement of a state law, in which case the most restrictive requirement shall control.

(Ord. No. 267-07, 6-11-2007)

DIVISION 8. - VIOLATIONS, ENFORCEMENT AND PENALTIES

Sec. 109-93. - Violations, ~~E~~enforcement and ~~P~~penalties.

Any action or inaction that violates the provisions of this article or the requirements of an approved plan or permit shall be subject to the enforcement actions or penalties outlined herein. Any such action or inaction that is continuous with respect to time is deemed to be a public nuisance and also may be abated by injunctive or other equitable relief. The imposition of any of the enforcement actions or penalties described herein shall not prevent such equitable relief.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-94. - Enforcement ~~P~~procedures.

The following are the enforcement procedures authorized by this article:

- (1) *Notices of violation.* Enforcement shall begin with the issuance of a written notice of violation to the owner or responsible person by the city manager or city manager's designee. The notice may be delivered personally or sent by electronic or first class mail return receipt requested. The notice of violation shall contain at least the following information:
 - a. The name and address of the owner or responsible person;
 - b. The location or address of the site upon which the violation is occurring;

- c. A description of the nature of the violation;
- d. A description of the remedial actions or measures necessary to bring an action or inaction into compliance with a permit, approved plan or this article;
- e. The date the violation was discovered and deadline or completion date for any such remedial actions or measures;
- f. A statement of the penalty or penalties that may be assessed against the owner or responsible person to whom the notice of violation is directed.

In the event the owner or responsible person fails to correct the violations after the deadline contained in the notice of violation, the city manager or city manager's designee is authorized to take or impose any one or more of the additional actions contained herein.

- (2) *Stop-work orders.* The city manager or city manager's designee is authorized to issue stop-work orders to an owner or responsible person. Stop-work orders are effective immediately and shall remain in effect until the necessary corrective actions or remedial measures set forth in the notice of violation have occurred. Stop-work orders may be withdrawn or modified by the city manager or city manager's designee in order to enable an owner or responsible person to take the necessary remedial actions or measures to correct the violations.
- (3) *Refusal to issue certificates of occupancy or completion.* The city manager or city manager's designee is authorized to refuse to issue certificates of occupancy or completion for the building or other improvements constructed or being constructed on a site until the owner or responsible person has taken the remedial actions or measures set forth in the notice of violation or has otherwise corrected the violations described therein.
- (4) *Suspension, revocation, or modification of permit.* The city manager or city manager's designee is authorized to suspend, revoke or modify a permit that was issued authorizing development. The city manager or city manager's designee is authorized to reinstate a suspended, revoked or modified permit after the owner or responsible person has taken the remedial actions or measures stated in the notice of violation or has otherwise corrected the violations described therein. The city manager or city manager's designee is also authorized to reinstate such permit, which may include conditions as the city manager or city manager's designee may deem necessary, to enable the owner or responsible person to take the necessary remedial actions or measures to correct the violations.
- (5) *Refusal to approve final subdivision plats.* The city manager or city manager's designee is authorized to refuse to approve final plats until the owner or responsible person has taken the remedial actions or measures set forth in the notice of violation or has otherwise corrected the violations described therein.
- (6) *Issuance of citations or summons to court.* The city manager or city manager's designee is authorized to issue a citation or summons to the owner or responsible person requiring such person to appear in a court of competent jurisdiction to answer charges for violations of this article.

(Ord. No. 267-07, 6-11-2007)

Sec. 109-95. - Legal Penalties and/or Remedies.

- (a) *Fine and/or sentence.* Any person convicted by a court of competent jurisdiction of violating any provision of this article shall be guilty of violating a duly adopted ordinance of the county-city and shall be punished either by a fine not less than \$100.00 per day and not greater than \$1,000.00 per day, or by a sentence of imprisonment not to exceed 60 days in jail, or both a fine and jail or work alternate. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- (b) *Other legal remedies.* In any case in which a violation of this article has occurred, the -countyCity, in addition to other remedies provided by law, may petition for a restraining order, injunction,

abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.

(Ord. No. 267-07, 6-11-2007)

Secs. 109-96—109-115. - Reserved.