

## ORDINANCE NO. 10-2185

*An ordinance of the City of Hoover to modify Chapter 12, Article III Flood Damage Prevention and to repeal all ordinances and parts of the ordinances of the City of Hoover in conflict therewith.*

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Hoover, in regular meeting duly assembled, a quorum being present, as follows:

### **Section 1. Modification of Chapter 12, Article III Flood Damage Prevention**

A. Chapter 12, Article III, Division 1, Section 12-36 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-36 in its entirety and replacing it with the following:

#### **Sec. 12-36. Definitions.**

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

*Addition (to an existing building)* means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

*Appeal* means a request for a review of the article administrator's interpretation of any provision of this article or a request for a variance.

*Area of shallow flooding* means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

*Area of special flood hazard* is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in section 12-41.

*Base flood* means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

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

*Breakaway wall* means 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* means any structure built for support, shelter, or enclosure for any occupancy or storage.

*Building official* means any employee authorized by the city Department of Building Inspection to conduct building inspections.

*Development* means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, and permanent storage of equipment or materials.

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

*Existing construction* means any structure for which the start of construction commenced before December 15, 1980. [i.e., the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)].

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before December 15, 1980.

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

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

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

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

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

*Flood insurance study (FIS)* is the official report by the federal insurance administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

*Floodplain* means any land area susceptible to flooding.

*Floodway (regulatory floodway)* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Floor* means 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 facility* means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

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

*Historic structure* means any structure that is:

- (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.

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

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

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

*Manufactured home* means a building, transportable in one (1) or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

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

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

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

*North American Vertical Datum (NAVD)* is a vertical control used as a surveying reference based upon the General Adjustment of the North American Datum of 1988. The NAVD 88 replaced the National Geodetic Vertical Datum of 1929. The NAVD 88 is currently used in the effective Flood Insurance Rate Maps and Flood Insurance Study.

*New construction* means any structure (see definition) for which the start of construction commenced after December 15, 1980 and includes any subsequent improvements to the structure. (i.e., the effective date of the first floodplain management ordinance adopted by the community as a basis for community participation in the (NFIP)) and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 15, 1980 (i.e., the effective date of the first floodplain management regulations adopted by the city).

*Repetitive loss* means flood-related damages sustained by a structure on two (2) 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 twenty-five (25) percent of the market value of the structure before the damages occurred.

*Recreational vehicle* means 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 a 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.

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

*Start of construction* means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (Note: accessory structures are not exempt from any requirements of this article) For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Structure* means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank or other manmade facilities or infrastructures.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damages sustained by a structure on two (2) separate occasions during a ten-year period of which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five (25) percent of the market value of the structure before the damages occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred substantial damage regardless of the actual amount of repair work performed.

For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

*Variance* is a grant of relief from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

*Violation* means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required

in the *Code of Federal Regulations* (CFR) §44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) and corresponding parts of this ordinance is presumed to be in violation until such time as that documentation is provided.

B. Chapter 12, Article III, Division 1, Section 12-37 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-37 in its entirety and replacing it with the following:

**Sec. 12-37. Savings Clause.**

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be in contravention to 44 *Code of Federal Regulation* §§59-78 (2008) and any amendments thereto, such decision shall not affect the validity of the remaining portions of this article. Any provision found herein to be in direct contravention with state law or federal law (either presently existing or enacted after the date of passage of this article) shall be superseded by such law and rendered unenforceable without effect to those provisions found herein that are not in contravention with State and/or federal law.

C. Chapter 12, Article III, Division 1, Section 12-38 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-38 in its entirety and replacing it with the following:

**Sec. 12-38. Statement of purpose**

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas through construction-related provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase hazards to other lands.

D. Chapter 12, Article III, Division 1, Section 12-41 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-41 in its entirety and replacing it with the following:

**Sec. 12-41. Basis for Areas of Special Flood Hazard.**

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Jefferson County, Alabama and its Flood Insurance Study (FIS) for Shelby County, Alabama, both dated September 29, 2006, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article. For those land areas acquired by a municipality through annexation, the current effective FIS and data are hereby adopted by reference. Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

E. Chapter 12, Article III, Division 1, Section 12-43 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-43 in its entirety and replacing it with the following:

**Sec. 12-43. Abrogation and greater restrictions.**

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

F. Chapter 12, Article III, Division 1, Section 12-46 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-46 in its entirety and replacing it with the following:

**Sec. 12-46. Penalties for violation.**

Violations of the provisions of this article 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 violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both, and in addition, shall pay all costs and expenses involved in the case. Each day that a violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

G. Chapter 12, Article III, Division 1, Section 12-47 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-47 in its entirety and replacing it with the following:

**Sec. 12-47. Injunction Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the authorized enforcement agency may petition the appropriate court for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

H. Chapter 12, Article III, Division 2, Section 12-57 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-57 in its entirety and replacing it with the following:

**Sec. 12-57. Duties and responsibilities of the article administrator.**

Duties of the article administrator shall include but not be limited to:

(1) Review all development permits to assure that the permit requirements of this article have been satisfied; and, assure that sites are reasonably safe from flooding.

(2) Review proposed development permits to assure that all necessary permits have been received from governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.

(3) Notify adjacent communities and the 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), and the state Department of Economic and Community Affairs/Office of Water Resources/NFIP State Coordinator's Office.

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

(5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with this article.

(6) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with this article.

(7) When flood proofing is utilized for a structure, the article administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with this article.

(8) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the article administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(9) When Base Flood Elevation data or floodway data have not been provided in accordance with section 12-41, then the article administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this article.

(10) All records pertaining to the provisions of this article shall be maintained in the office of the article administrator and shall be open for public access.

I. Chapter 12, Article III, Division 2, Section 12-59 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-59 in its entirety and replacing it with the following:

**Sec. 12-59. Permit procedures.**

Application for a Development Permit shall be made to the article 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 elevation of the area in question; existing or proposed structures, fill, storage of materials, 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 (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
- b. Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 12-72(2);

d. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development.

(2) *Construction stage.* For all new construction and substantial improvements, the permit holder shall provide to the article administrator an as-built certification of the regulatory floor elevation or flood-proofing level using appropriate FEMA elevation or flood-proofing certificate immediately after the lowest floor or flood-proofing is completed. When flood-proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk. The article administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

J. Chapter 12, Article III, Division 2, Section 12-60 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-60 in its entirety and replacing it with the following:

**Sec. 12-60. Variance procedures.**

(a) The Hoover Code Appeals Board as established by the city shall hear and decide requests for appeals or variance from the requirements of this article.

(b) The Hoover Code Appeals Board shall hear and decide appeals when it is alleged an error in any requirement, decision or determination is made by the article administrator in the enforcement or administration of this article. The decision of the Hoover Code Appeals Board shall be final.

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

(d) In reviewing such requests, the Hoover Code Appeals Board shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article, and:

(1) The danger that materials may be swept onto other lands to the injury of others.

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

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

(e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

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

(g) Conditions for variances:

(1) A variance shall be issued only when there is:

a. A finding of good and sufficient cause;

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

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

(2) The provisions of this article are minimum construction standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(3) Any applicant 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 commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

(4) The article administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the state Department of Economic and Community Affairs/Office of Water Resources upon request.

(h) Upon consideration of the factors listed above and the purposes of this article, the Hoover Code Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

K. Chapter 12, Article III, Division 3, Section 12-71 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-71 in its entirety and replacing it with the following:

**Sec. 12-71. General construction and design standards.**

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

(1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) 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.

(3) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.

(4) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.

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

(6) New and replacement water supply system shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

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

(9) Any alteration, repair, reconstruction or improvements to a structure which is in compliance with the provisions of this article shall meet the requirements of new construction as contained in this article.

L. Chapter 12, Article III, Division 3, Section 12-72 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-72 in its entirety and replacing it with the following:

**Sec. 12-72. Specific construction and design standards.**

In all areas of special flood hazard designated as A1-30, AE, AH, A (with estimated BFE), the following provisions are required:

(1) *New construction and substantial improvements.* Where base flood elevation data are available, new construction or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than two (2) feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards for elevated buildings.

(2) *Non-residential construction.* New construction or the substantial improvement of any non-residential structure located in A1-30, AE or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to two (2) feet above the base flood elevation, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted

standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in this article.

(3) *Elevated buildings.* 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 to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

1. Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

2. The bottom of all openings shall be no higher than one (1) foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

b. Electrical, plumbing and other utility connections are prohibited below the base flood elevation.

c. 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

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

(4) *Standards for manufactured homes and recreational vehicles.* Where base flood elevation data are available:

a. All manufactured homes placed or substantially improved on:

1. Individual lots or parcels;

2. In new or substantially improved manufactured home parks or subdivisions;

3. In expansions to existing manufactured home parks or subdivisions; or

4. On a site in an existing manufactured home park or subdivision where a manufactured home has incurred substantial damage as the result of a flood, must have the lowest floor including basement elevated no lower than one (1) foot above the base flood elevation.

b. Manufactured homes placed or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:

1. The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation; or

2. Where no Base Flood Elevation exists, the manufactured home chassis and supporting equipment is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than thirty-six (36) inches in height above grade.

c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

d. All recreational vehicles placed on sites must either:

1. Be on the site for fewer than one hundred eighty (180) consecutive days, fully licensed and 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 new construction, including the anchoring and elevation requirements of this article.

M. Chapter 12, Article III, Division 3, Section 12-73 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-73 in its entirety and replacing it with the following

**Sec. 12-73. Building and design standards for streams without established base flood elevations (Approximate A-Zones).**

Located within the Areas of Special Flood Hazard established in Section 12-41, where streams exist but no base flood data have been provided (Approximate A-Zones), the following provisions apply:

(1) When base flood elevation data or floodway data have not been provided in accordance with this article, then the article administrator shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of this article. Only if data are not available from these sources, then the following provisions (2) and (3) shall apply.

(2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty-five (25) feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(3) All development in Zone A must meet the requirements of Section 12-71 and 12-72.

(4) In special flood hazard areas without base 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 (3) feet above the highest adjacent grade at the building site. Also, in the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Section 12-72(4)(b)(2) in that the structure must be elevated to a maximum of thirty-six (36) inches. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of section 12-72(3), elevated buildings.

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

N. Chapter 12, Article III, Division 3, Section 12-74 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-74 in its entirety and replacing it with the following

**Sec. 12-74. Construction and design standards for subdivision proposals.**

(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

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

O. Chapter 12, Article III, Division 3, Section 12-75 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 12-75 in its entirety and replacing it with the following

**Sec. 12-75. Construction and design standards for areas of shallow flooding (AO zones)**

Areas of Special Flood Hazard established in this article may include designated AO shallow flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM) above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of section 12-72(3), elevated buildings.

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

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

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

P. Chapter 12, Article III, Division 1 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by adding Section 12-76 as follows:

**Sec. 12-76. Floodways.**

Located within Areas of Special Flood Hazard as established by Section 12-41, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

(1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry waters of the base flood, without increasing the water surface elevation of that flood more than one (1) foot at any point.

(2) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.

(3) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of 44 CFR § 65.12, and receives the approval of the Administrator.

(4) Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(5) Only if Section 12-76(2), (3) or (4) above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Division 3.

Q. Chapter 12, Article III, Division 1 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by adding Section 12-77 as follows:

**Sec. 12-77. 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; flood heights may be increased by man-made or natural causes. This

article does not imply that land outside the Areas of Special Flood Hazard will be free from flooding or flood damages. The provisions of this article shall not increase liability on the part of the City of Hoover or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

**Section 2. ORDINANCES REPEALED.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 3. SEVERABILITY.** That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Hoover hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**Section 4. LEGAL RIGHTS NOT IMPAIRED.** That nothing in this ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

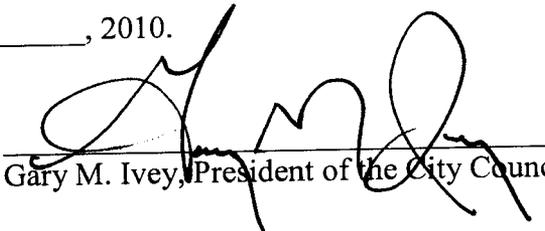
**Section 5. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS.** This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance 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.

**Section 6. PUBLICATION OF ORDINANCE.** That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

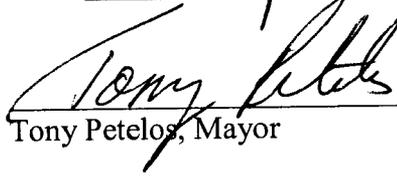
**Section 7. EFFECTIVE DATE OF ORDINANCE.** That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect on February 1, 2010 and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT RESOLVED, that the City Council of the City of Hoover does hereby ordain, resolve, and enact the foregoing Ordinance for the City of Hoover.

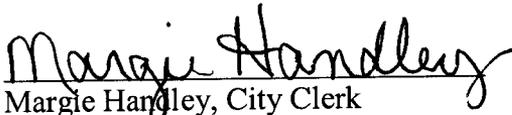
Done this the 4 day of Jan, 2010.

  
\_\_\_\_\_  
Gary M. Ivey, President of the City Council

APPROVED THIS THE 4<sup>th</sup> DAY OF January, 2010.

  
\_\_\_\_\_  
Tony Petelos, Mayor

ATTESTED:

  
\_\_\_\_\_  
Margie Handley, City Clerk