

**ORDINANCE NO. 1-2009
CITY OF PASCAGOULA, MISSISSIPPI**

**AN ORDINANCE TO REVISE AND UPDATE THE REGULATIONS AND
PROCEDURES FOR PREVENTION OF FLOOD DAMAGE; TO REPEAL
ORDINANCE NO. 1-2008; TO ESTABLISH AN EFFECTIVE DATE; AND
FOR RELATED PURPOSES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PASCAGOULA,
MISSISSIPPI:**

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

Section A. Statutory authorization.

The Legislature of the State of Mississippi has in MCA 1972, 17-1-1 et seq., delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Section B. Findings of fact.

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

Section C. Statement of purpose.

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

- (1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights 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 floodwaters;
- (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 floodwaters or which may increase flood hazards to other lands.

Section D. Objectives.

The objectives of this ordinance are:

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

Section E. Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting 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) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards in other areas.

ARTICLE 2. DEFINITIONS

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

A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings.

A1-A30 and *AE zone* means the special flood hazard area inundated by the 100-year flood in which base flood elevations are determined.

Accessory structure (appurtenant structure) means a structure which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

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 firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load bearing walls, is new construction.

Appeal means a request for a review of the building official's interpretation of any provision of this ordinance.

Area of special flood hazard is the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood). Base flood is the term used throughout this ordinance.

Base flood elevation (BFE) means the elevation of the base flood.

Basement means that portion of a building having its floor 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. See *Structure*.

City means the City of Pascagoula, Mississippi.

Coastal AE zone means the portion of the special flood hazard area (SFHA) landward of a velocity (V) zone or landward of an open coast or back-bay area without mapped V-zones, in which the principal sources of flooding are astronomical tides, storm surges, seiches, or tsunamis, not riverine sources. Coastal AE zones may be subject to wave effects, velocity flows, erosion, scour, or combinations of these forces and are treated as V-zones. All community - identified portions of the special flood hazard area (SFHA) between the landward limit of the moderate wave action delineation and the V-zone boundary shall be treated in a regulatory sense as V-zones. Where no V-zone is mapped in back-bay areas, the Coastal AE Zone is the portion between shore and the landward limit of the moderate wave action delineation as noted in the legend on the preliminary flood insurance rate maps.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. This area is designated in Article 5, section E.

Critical facility means facilities for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development means any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts or piers), shear walls, or breakaway walls.

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

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 driveways, and either final site grading or the pouring of concrete pads) was completed before February 19, 2008.

Existing structure means any structure for which the "start of construction" commenced before February 19, 2008.

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 driveways, and either final site grading or the pouring of concrete pads).

Fill means a deposit of earth material placed by artificial means in depths greater than six inches.

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

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

Flood boundary and floodway map (FBFM) means the official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood hazard boundary map (FHBM) means an official map of the city, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as zone A.

Flood insurance rate map (FIRM) means an official map of the city, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the city.

Flood insurance study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FHBM (where applicable) and the water surface elevation of the base flood.

Floodplain means any land area susceptible to flooding.

Floodplain administrator is the official appointed to administer and enforce this ordinance.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

Floodproofing certificate means a form provided by a registered professional engineer used to certify compliance for non-residential structures as an alternative to elevating structures to or above the BFE.

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 one foot.

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. The minimum freeboard for the city shall be one foot.

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 docking or port facilities necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood offloading facilities. The term does not include long-term storage, manufacture, processing functions, sales, administrative functions, or service facilities.

Hardship (as related to variances of this ordinance) means an exceptional hardship that would result from a failure to grant the requested variance. The city requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of neighbors likewise cannot qualify as an exceptional hardship.

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

Historic structure means any structure that is:

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

Increased cost of compliance (ICC) means the cost to repair a substantially damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with this ordinance. ICC coverage is provided in a standard NFIP flood insurance policy.

Limit of Moderate Wave Action (LiMWA) is the limit of the AE Zone category area exposed to wave attack from waves greater than 1.5 feet during the base (one percent chance) flood on open coastal and inland areas exposed to erosion and wave propagation. Base flood conditions between the VE Zone and the LiMWA will be similar to, but less severe than those in the VE Zone.

Lowest adjacent grade means the elevation of the sidewalk, patio, deck support, or basement entryway immediately next to the structure and after the completion of construction. It does not include earth that is placed for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.

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

Manufactured home means a 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 park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer.

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

Market value means the building value, excluding the land. Market value can be established by independent certified appraisal; replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.

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

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

New construction means a structure for which the start of construction commenced on or after February 19, 2008 and includes any subsequent substantial improvements or additions to such structure and any construction beginning on a new foundation system or construction beginning with existing foundation system and the raising of new walls.

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 driveways, and either final site grading or the pouring of concrete pads) is completed after February 19, 2008.

New structure means any structure for which the "start of construction" commenced after February 19, 2008. The term also includes any subsequent improvements to such a structure.

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

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

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

Pascagoula Floodplain Management Map means a map produced by the city utilizing any base flood elevation and floodway data available from a federal, state, or other source and incorporates the elevation data included on the Digital Flood Insurance Rate Maps of Jackson County Dated March 16, 2009, panel numbers 28059C0338G, 28059C0339G, 28059C0343G,

28059CIND0A, 28059C0344G, 28059C0426G, 28059C0427G, 28059C0430G, 28059C0431G, 28059C0432G, 28059C0433G and 28059C0434G.

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

Recreational vehicle means a vehicle that is:

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

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

Special flood hazard area (SFHA) means that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as zones A, AE, A1-A30, AH, AO, AR, V, VE, or V1--V30.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P.L. 97-348), includes substantial improvement, and means the date the building 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 building (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 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 the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For 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 all walled and roofed buildings, gas or liquid storage tanks principally above ground, and manufactured homes.

Subrogation means an action brought by FEMA when flood damages have occurred, flood insurance has been paid, and all or part of the damage can be attributed to acts or omissions by a community or other third party.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its' before damaged condition would equal or exceed 50 percent

of the market value of the structure before the damage occurred. Substantial damage also means 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.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "repetitive loss" or "substantial damage," regardless of the actual repair work performed either:

a. Before the improvement or repair is started; or
b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures that have incurred "substantial damage" or "repetitive loss," regardless of the actual 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 building required to comply with existing health, sanitary, or safety code specifications which have been identified prior to permit issuance by the building official and which are solely necessary to ensure safe living conditions, provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners; 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 driveways, utilities and pads equals or exceeds 50 percent of the value of the driveways, utilities and pads before the repair, reconstruction or improvement commenced.

V zone means the portion of the SFHA that extends from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high-velocity wave action from storms or seismic sources.

V1--V30 and *VE zone* means that portion of the SFHA inundated by the 100-year flood that is primarily coastal flooding with velocity hazards (wave action) in which base flood elevations are determined.

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

Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without an elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Wet flood proofing means a method of construction which allows water to enter a structure in such a way that will minimize damage to the structure and its contents. Wet flood proofing is appropriate for functionally dependent structures and structures that facilitate open space use by variance only, structures utilized for parking or limited storage, or when all other techniques are not technically feasible. Wet flood proofing shall not be utilized as a method to satisfy the requirements of this ordinance for bringing substantially damaged or improved structures into compliance,

X zones (shaded) means areas of 500-year flood, area subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and area protected by levees from the base flood.

ARTICLE 3. GENERAL PROVISIONS

Section A. Lands to which this ordinance applies.

This ordinance shall apply to all areas within the corporate limits of the city.

Section B. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Jackson County Flood Insurance Study, dated March 16, 2009, with the accompanying Flood Insurance Rate Maps (FIRM) panel numbers 28059CIND0A, 28059C0338G, 28059C0339G, 28059C0343G, 28059C0344G, 28059C0426G, 28059C0427G, 28059C0430G, 28059C0431G, 28059C0432G, 28059C0433G, 28059C0434G and other supporting data, and the Pascagoula Floodplain Management Map are adopted by reference and declared to be a part of this ordinance.

Section C. Establishment of floodplain development permit.

A development permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activity in the city.

Section D. Compliance.

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

Section E. Abrogation and greater restrictions.

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

Section F. Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the city; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section G. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance 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 ordinance or any administrative decision lawfully made hereunder.

Section H. Penalties for violations.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000.00 or by imprisonment not exceeding 90 days or both. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 4. ADMINISTRATION

Section A. Designation of administrator.

The building official is hereby appointed to administer and enforce the provisions of this ordinance.

Section B. Permit procedures.

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

(1) *Application stage.*

- a. Elevation in relation to mean sea level of the proposed lowest floor (including the basement) of all buildings;
- b. Elevation in relation to mean sea level to which any nonresidential building will be flood proofed;
- c. Certificate from a registered professional engineer or architect that the nonresidential flood proofed building will meet the flood proofing criteria in Article 5, section B(2) and section D(2);
- d. Plans and construction documents of the proposed development which may include, but not be limited to, surveys, floor plans, foundation plans, exterior elevations, predevelopment and post development grade elevations, and any other documents deemed necessary by the building official to ensure compliance with this ordinance; and

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

(2) *Construction stage.* Upon placement of the lowest floor, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the building official a certification of the NGVD or NAVD elevation of the lowest floor or flood proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building 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 the certification shall be at the permit holder's risk. The building official shall review the lowest floor and floodproofing elevation survey data submitted. The permit holder immediately and prior to further work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections shall be cause to issue a stop work order for the project.

Section C. Duties and responsibilities of the building official.

Duties of the building official shall include, but not be limited to:

- (1) Review all development permits to ensure that the permit requirements of this ordinance have been satisfied.
- (2) Advise the permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities, the state National Flood Insurance Program coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.
- (4) Ensure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved buildings, in accordance with Article 4, section B(2).
- (6) Verify and record the actual elevation (in relation to mean sea level) to which new or substantially improved buildings have been flood proofed, in accordance with Article 4, section B(2).
- (7) Review certified plans and specifications for compliance.
- (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), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.
- (9) When base flood elevation data or floodway data have not been provided in accordance with Article 3, section B, 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 Article 5.

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section A. General standards.

In all areas of the city the following provisions are required:

- (1) New construction and substantial improvements 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 shall be constructed with materials and attendant utilities resistant to flood damage.
- (4) New construction or substantial improvements 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 systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (7) 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.
- (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 building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" unless such repair meets the provisions of Article 5, section A(10).
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said nonconformity is not furthered, extended, or replaced.
- (11) Structures which are not considered "new construction" and were damaged as a result of Hurricane Katrina, August 29th , 2005, will be allowed to rebuild to elevations previously compliant with Ordinance No 3-2001, dated April 17, 2001.
- (12) New construction and substantial improvements shall have the lowest floor elevated to no less than one (1) foot above the highest crown of an adjacent street or roadway, unless the topography of the property does not allow for strict adherence as determined by the building official, or one (1) foot above the elevation stipulated for that parcel by the Pascagoula Floodplain Management Map, whichever is greater.

Section B. Specific standards.

In all areas of special flood hazard where base flood elevation data have been provided, as set forth in Article 3, section B, the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including the basement, elevated to no lower than one foot above the elevation stipulated for that parcel by the Pascagoula Floodplain Management Map. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movement of floodwaters shall be provided in accordance with the standards of Article 5, section B(3).
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial, or nonresidential building not classified as functionally dependent shall

have the lowest floor, including the basement, elevated to no lower than one foot above the elevation stipulated by the Pascagoula Floodplain Management Map. Nonresidential structures which are not located in Coastal AE zones or V zones may be flood proofed in lieu of being elevated, provided that all areas of the building below the elevation stipulated for that parcel by the Pascagoula Floodplain Management Map are watertight 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 that the standards of this subsection are satisfied. Such certification shall be provided to the building official as set forth in Article 4, section C (9).

(3) *Elevated buildings.* New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

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

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

(ii) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

(iii) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic flow of floodwaters in both directions.

b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

c. The interior portion of such enclosed area shall not exceed 300 square feet nor be partitioned or finished into separate rooms.

d. Where elevation requirements exceed six feet above the highest adjacent grade, a copy of a legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the building's originally approved design, shall be presented as a condition of issuance of the final certificate of occupancy.

(4) *Standards for manufactured homes and recreational vehicles.*

a. All manufactured homes placed, or substantially improved, on individual lots or parcels, in expansions to existing manufactured home parks or subdivisions, in a new manufactured home park or subdivision or in substantially improved manufactured home parks or subdivisions, must meet all the requirements for new construction, including elevation and anchoring.

b. All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

(i) The lowest floor of the manufactured home is elevated no lower than one foot above the elevation stipulated for that parcel by the Pascagoula Floodplain Management Map.

(ii) The manufactured home chassis is supported by reinforced concrete piers or other permanent foundation elements of at least an equivalent strength no less than 36 inches in height above the ground.

(iii) The manufactured home must be securely anchored to an adequately anchored permanent foundation system to resist flotation, collapse and lateral movement.

(iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of Article 5, section B(4)(b)(i) through (iii).

c. All recreational vehicles placed on sites must either:

(i) Be fully licensed and ready for highway use; or

(ii) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of Article 5, section B(4)(a) or (b)(i) through (iii) above, or be on the site for fewer than 180 consecutive days.

(iii) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

Section C. Standards for streams without established base flood elevation and/or floodways.

Within the areas of special flood hazard established in Article 3, section B, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions shall apply:

(1) When base flood elevation data or floodway data have not been provided in accordance with Article 3, section B, then the building official 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 Article 5. If data is not available from outside sources, then provision (2) shall apply.

(2) No encroachments, including fill material or structures, shall be located within a distance of the stream bank equal to 1.5 times the width of the stream at the top of the bank or 20 feet each side from the top of the bank, whichever is greater, 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.

Section D. Standards for subdivision proposals.

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

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

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

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) which are greater than 50 lots or five acres, whichever is the lesser of the two.

Section E. Coastal high hazard areas.

Within areas of special flood hazard established in Article 3, section B are coastal high hazard areas, designated as zones V1--V30 and Coastal AE zones. These areas have special flood hazards associated with high velocity waters from surges; therefore, in addition to meeting all other provisions in this ordinance, the following provisions shall also apply:

(1) All new construction and substantial improvements in coastal high hazard areas shall be elevated on pilings or columns so that:

- a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the elevation stipulated for that parcel by the Pascagoula Floodplain Management Map.
 - b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in a given year (100-year mean recurrence interval).
- (2) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance.
 - (3) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in coastal high hazard areas. The building official shall maintain a record of all such information.
 - (4) All new construction shall be located landward of the reach of mean high tide.
 - (5) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Breakaway wall enclosures will not exceed 300 square feet. Use of breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by city codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year.
 - (6) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
 - (7) Prohibit the use of fill for structural support of buildings.
 - (8) Prohibit manmade alteration of sand dunes that would increase potential flood damage.
 - (9) All manufactured homes to be placed or substantially improved within coastal high hazard areas on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to an existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood shall meet the standards of Article 5, section E(1) through (8) and that manufactured homes placed or substantially improved on other

sites in an existing manufactured home park or subdivision within coastal high hazard areas meet the requirements of Article 5, section B(4)(a) through (b).

(10) Recreational vehicles placed on a site within coastal high hazard areas shall either:

- a. Be on the site for fewer than 180 consecutive days;
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- c. Meet the requirements of Article 4, section B (permit procedures) and Article 5, sections B and E.

Section F. Critical facilities.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to no less than two feet above the elevation stipulated for that parcel by the Pascagoula Floodplain Management Map. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section G. Functionally dependent facility.

Functionally dependent facilities with the lowest floor below the required elevation as stipulated by the Pascagoula Floodplain Management Map are required to:

- (1) Be wet flood proofed in a manner that minimizes damage to the structure and attendant utilities.
- (2) All building elements shall be made of materials impervious to flood damage.
- (3) Meet the requirements of Article 5, section B(3)(a).
- (4) Be allowed by variance only.

Section H. Open space facilitation.

Public structures that facilitate open space use, such as comfort stations, public restrooms, and minimal park facilities, shall meet the following provisions:

- (1) Meet the requirements of Article 5, sections A, B, and E, except that the elevation requirements shall be at a minimum those elevations stipulated by the Pascagoula Floodplain Management Map.
- (2) Structures constructed under the provisions of this section shall be wet flood proofed.
- (3) Be constructed to minimize impacts by restricting the size and cost to the minimum necessary.
- (4) Have the attendant utilities elevated to a minimum of one foot above the elevation stipulated by the Pascagoula Floodplain Management Map.
- (5) Be allowed by variance only.

ARTICLE 6. VARIANCE AND APPEAL PROCEDURES

Section A. Designation of city council as variance and appeals board.

The city council shall hear and decide appeals and applications for variances from requirements of this ordinance.

Section B. Duties of city council as variance and appeals board.

The city council shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the building official in the enforcement or administration of this ordinance. A notice of appeal shall be filed in writing with the building official on a form provided by him. The notice of appeal shall specify the decision of the building official being appealed and shall be filed within 15 days of notification of an adverse decision by the building official. Any person aggrieved by the decision of the city council may appeal such decision to the Circuit Court of Jackson County, Mississippi. Applications for variances shall be filed with the building official.

Section C. Variance procedures.

In passing upon applications for variances, the city council shall consider all technical evaluations, all other relevant factors, standards specified in other sections of this ordinance, and the following:

- (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 to the facility of a waterfront location, where applicable;
- (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (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 of transport of the floodwaters 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.

Section D. Conditions for variances.

- (1) Variances shall only be issued when there is:
 - a. A showing 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 public expense, create a nuisance, cause fraud on or victimization of the public, or conflict with other city ordinances.
- (2) 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 structure.

(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 to which the lowest floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See Article 6, section E.)

(4) The building official shall maintain the records of all appeals and report any variances to the Federal Emergency Management Agency or Mississippi Emergency Management Agency upon request. (See Article 6, section E.)

Section E. Variance notification.

Any applicant to whom a variance is granted shall be given written notice by the building official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the building official in the office of the city clerk and shall be recorded in the land records of Jackson County, Mississippi.

The building official shall maintain a record of all variances, including justification for their issuance, and report such variances issued in the city's biennial report to the Federal Emergency Management Agency.

Section F. Historic structures.

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

Section G. Special conditions.

Upon consideration of the factors listed in this Article 6, and the purposes of this ordinance, the city council may attach reasonable conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result.

ARTICLE 7. SEVERABILITY

If any section, clause, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

ARTICLE 8. REPEAL OF ORDINANCE NO. 1-2008

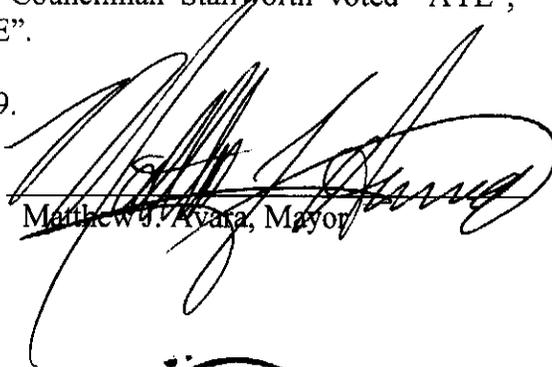
Ordinance No. 1-2008 is hereby repealed. The repeal of Ordinance No. 1-2008 shall not make valid any violation of such ordinance, nor shall this ordinance be construed to abate any pending action under any of the provisions of said ordinance or to impair or enlarge any rights vested in any person under the provisions of said ordinance.

ARTICLE 9. EFFECTIVE DATE

This ordinance shall become effective one month after passage.

The foregoing Ordinance was introduced in writing by Councilman Wolverton, seconded for adoption by Councilman Corder, and the motion received the following vote: Mayor Avara voted "AYE", Councilman Abston voted "AYE", Councilman Belcher voted "AYE", Councilman Corder voted "AYE", Councilman Jones voted "ABSENT", Councilman Stallworth voted "AYE", and Councilman Wolverton voted "AYE".

Passed this the 23rd day of January, 2009.



Matthew J. Avara, Mayor

ATTEST:



Brenda J. Reed, City Clerk

