

O-04-08
AN ORDINANCE
AMENDING
CHAPTER 42
ENVIRONMENT

BE IT ORDAINED by the City Commissioners of the City of Decatur, Georgia, and it is hereby ordained by authority of the same, that Chapter 42, Environment, of the Code of the City of Decatur, Georgia, be and the same is hereby amended by deleting Article IX, Flood Hazard Prevention, and by adding a new Article IX, which shall read as follows:

CHAPTER 42 — ENVIRONMENT

ARTICLE IX.

FLOODPLAIN MANAGEMENT / FLOOD DAMAGE PREVENTION

Sec. 42-251. Description.

Floodplain management involves the designation of flood-prone areas and the managing of their uses. It is also aimed at minimizing modifications to streams, reducing flood hazards, and protecting the beneficial uses of the floodplain such as water quality protection. As such, floodplain management can be seen as a subset of the larger consideration of surface water and stormwater management.

Floodplain regulations and development restrictions can greatly reduce future flooding impacts, preserve greenspace and habitat, and protect their function in safely conveying floodwaters and protecting water quality. This model ordinance aims to help communities integrate floodplain management with stormwater management during the land development process.

Sec. 42-252. Introduction.

It is hereby determined that:

The flood hazard areas of City of Decatur are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

Flood hazard areas can serve important stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed greenspace areas.

Effective floodplain management and flood hazard protection activities can (1) Protect human life and health; (2) Minimize damage to private property; (3) Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and (4) Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.

Therefore, the City of Decatur establishes this set of floodplain management and flood hazard reduction policies for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damages is in the public interest and will minimize threats to public health and safety.

Sec. 42-253. General Provisions.

(a) Purpose and Intent.

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

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

(6) Protect the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

(b) Applicability.

This ordinance shall be applicable to all Areas of Special Flood Hazard within the City of Decatur, i.e. floodplain and flood prone areas as defined herein at or below the base flood elevation or the regulatory flood elevation, whichever is more restrictive (including A, AO, AH, AE, A1-30, or A-99 on the FIRM), and all new or substantial improvement residential units, all subdivisions, non-residential structures, manufactured home, recreational vehicles, and utilities located within these areas. In addition, all streams with a drainage area of 100 acres or more have an area of special flood hazard.

(c) Designation of Ordinance Administrator.

The City Engineer is hereby appointed to administer and implement the provisions of this ordinance.

(d) Basis for Area of Special Flood Hazard — Flood Area Maps and Studies.

For the purposes of this ordinance, the following are adopted by reference:

(1) The Flood Insurance Study (FIS), dated May 1, 2001, with accompanying maps and other supporting data and any revision thereto. For those land areas acquired by the City through annexation, the current effective FIS and data for DeKalb County are hereby adopted by reference.

(2) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain include:

- a. Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to the City of Decatur; or
- b. Any base flood study authored by a registered professional engineer in the State of Georgia which has been approved by the City Engineer.

(3) Other studies which may be relied upon for the establishment of the regulatory flood elevation or delineation of the regulatory floodplain include:

- a. Any flood or flood-related study conducted by the United States Corps of Engineers or the United States Geological Survey applicable to the City of Decatur; or
- b. Any regulatory flood study authored by a registered professional engineer in the State of Georgia which has been approved by the City Engineer

(e) Compatibility with Other Regulations.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, covenant, deed restriction or other provision of law. The requirements of this ordinance are in addition 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 impose higher protective standards for human health or the environment shall control.

(f) 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 considerations. Larger floods can and will occur; 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 of Decatur or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

Sec. 42-254. Definitions.

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 an independent perimeter load-bearing wall shall be considered New Construction.

Appeal means a request for a review of the City Engineer s interpretation of any provision of this ordinance.

Area of Shallow Flooding means a designated AD or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or 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 subject to a one 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 42-253(d).

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year [i.e., the 100-year flood].

Base Flood Elevation means the highest water surface elevation anticipated at any given point during the base flood.

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

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

City Engineer shall mean the City Engineer of the City of Decatur or his/her designee.

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

Existing Construction Any structure for which the "start of construction" commenced before May 5, 1992, the date of adoption of Ordinance O-92-13 Flood Damage Prevention, adopted by the City of Decatur as a basis for participation in the National Flood Insurance Program (NFIP). NOTE: The City's first Floodplain Management Ordinance was adopted December 5, 1977

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) was completed before May 5, 1992.

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.

FEMA means the Federal Emergency Management Agency.

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 or *FHBM* means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

Flood Insurance Rate Map or *FIRM* means an official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study or *FIS* means 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, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown in the current land use plan; i.e., the regulatory flood.

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.

Functionally Dependent Use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Highest Adjacent Grade means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

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.

Land Development means any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

Land Development Activities means those actions or activities which comprise, facilitate or result in land development.

Land Development Project means a discrete land development undertaking.

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 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 includes any structure commonly referred to as a mobile home regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

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 any structure (see definition) for which the start of construction" commenced after May 5, 1992, the date of adoption of Ordinance O-92-13 Flood Damage Prevention and includes any subsequent improvements to the structure.

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 were affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed on or after May 5, 1992.

Owner means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

Permit means the permit issued by the City Engineer to the applicant which is required for undertaking any land development activity.

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 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.

Regulatory Flood means the flood standard equal to or higher than the Base Flood. The Regulatory Flood is defined as the flood having a one percent chance of being equaled or exceeded in any given year assuming the drainage basin is fully developed as shown on the current land use plan. Only structural stormwater control facilities that can be shown will remain, and those owned by the City of Decatur, and are large enough to be included in the hydrograph routings shall be considered when determining the flood peak.

Regulatory Flood Elevation means the flood standard equal to or higher than the Base Flood Elevation. The Regulatory Flood Elevation is defined as the highest water surface anticipated at any given point during the regulatory flood.

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

Start of Construction means the date the permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of 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. Accessory structures are not exempt from any ordinance requirements. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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 Improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a 5-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the improvement. The market value of the building means (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 those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the City Building Official or other Code Enforcement Official, and not solely triggered by an improvement or repair project.

Substantially Improved Existing Manufactured Home Park or Subdivision is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

Sec. 42-255. Permit Procedures and Requirements.

(a) Permit Application Requirements.

No owner or developer shall perform any land development activities on a site where a regulatory floodplain is located, or is proposed to be altered or disturbed in any way, without first meeting the requirements of this ordinance prior to commencing the proposed activity.

Unless specifically excluded by this ordinance, any owner or developer desiring a permit for a land development activity shall submit to the City Engineer a permit application on a form provided by the City Engineer for that purpose.

No land development permit will be approved for any land development activities that do not meet the requirements, restrictions and criteria of this ordinance.

(b) Floodplain Management Plan Requirements.

No application for a land development project within any area of special flood hazard established in Sec. 42-253 (d) will be approved unless it includes a floodplain management / flood damage prevention plan. This plan shall be in accordance with the criteria established in this section.

This plan must be submitted with the stamp and signature of a Professional Engineer licensed in the State of Georgia, who will verify that all designs are consistent with the requirements of this ordinance.

The approved floodplain management / flood damage prevention plan shall contain certification by the applicant that all land development activities will be done according to the plan or previously approved revisions. Any and all land development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and building activities are not in strict accordance with approved plans.

The floodplain management / flood damage prevention plan shall include, but not be limited to, the following: plans drawn to a no smaller than 1" = 20' scale of the site in question and the nature, location, and dimensions of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage and stormwater management facilities.

Specifically, the following information is required:

- (1) Site plan, including but not limited to:
 - a. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;

- b. Proposed locations of water supply, sanitary sewer, and utilities;
- c. If available, the base flood elevation and/or regulatory flood elevation; and,
- d. If applicable, the location of the floodway.

(2) Foundation design detail, including but not limited to:

- a. Proposed elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all structures;
- b. For a crawl-space foundation, location and total net area of foundation openings as required in Sec. 42-257 (a)(4) of this ordinance.

(3) Proposed elevation in relation to mean sea level to which any substantial improvements to an existing non-residential structure will be flood-proofed, as required in Sec. 42-257 of this ordinance;

(4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed land development project; and,

(5) All appropriate certifications required under this ordinance.

(6) In addition to the required paper copies, a digital file of the property survey, preliminary plat or site plan depicting the floodplain areas shall be provided to the City Engineer in an acceptable format. The survey information shall be geo-referenced to the State Plane Coordinate System (Georgia West) and shall be tied to the Mean Sea Level Datum.

(c) Construction Stage Submittal Requirements.

For all new construction and substantial improvements on sites with a floodplain management / flood damage prevention plan, the permit holder shall provide to the City Engineer a certified as-built plan showing the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is completed as well as the regulatory flood elevation for the site as depicted in the latest FEMA flood map or as established through a study acceptable to the City Engineer. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. 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. . In addition to the required paper copies, a digital file of the property survey, final plat or site plan depicting the disturbed areas shall be provided to the City Engineer in an acceptable format. The survey information shall be geo-referenced to the State Plane Coordinate System (Georgia West) and tied to the Mean Sea Level Datum.

Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The City Engineer 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 work being allowed to proceed. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project and may result in further enforcement action and penalties pursuant to these regulations

(d) Duties and Responsibilities of the Administrator.

Duties of the City Engineer shall include, but shall not be limited to:

- (1) Review all land development applications and permits to assure that the requirements of this ordinance have been satisfied;
- (2) Require that copies of all known necessary permits 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, be provided and maintained on file;
- (3) When Base Flood Elevation data or floodway data have not been provided, then the City Engineer shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, state or other sources in order to meet the provisions of Sections 42-256 and 42-257 of these regulations;
- (4) Record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures as certified by the permit holder in accordance with these regulations;
- (5) Record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed as certified by the permit holder in accordance with these regulations;
- (6) When flood-proofing is utilized for a structure, the City Engineer shall obtain certification of design criteria from the permit holder's registered professional engineer or architect;
- (7) Notify affected adjacent communities and the Georgia 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);

(8) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the City Engineer 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 ordinance. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations and accurately established field elevations rather than the area graphically delineated on the floodplain maps; and,

(9) All records pertaining to the provisions of this ordinance shall be maintained in the office of the City Engineer and shall be open for public inspection.

Sec. 42-256. Standards for Land Development.

(a) Definition of Floodplain Boundaries.

(1) Studied A zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.

(2) For Special Flood Hazards Areas and flood prone areas, the regulatory flood elevations shall be determined by a registered professional engineer using a method approved by FEMA and the City Engineer.

(3) The boundaries or limits of the floodplain shall be within 0.5 feet vertical accuracy on the grading or site plan containing existing topographic information and shall be based on an actual field survey with elevations tied to the National Geodetic Vertical Datum (NGVD).

(b) Definition of Floodway Boundaries.

(1) The width of a floodway shall be determined from the FIS or FEMA approved flood study.

(2) Following a pre-design conference with the City Engineer the boundaries or limits of the floodway shall be shown on the development and/or stormwater site plans containing existing topographic information.

(c) General Standards.

(1) No construction or structures, including grading, filling, cutting or displacement of earth shall be allowed within the regulatory floodplain that could result in any of the following:

a. Raising the regulatory flood elevation beyond the boundaries of the ownership of the property being developed unless contained in a drainage easement obtained by the developer;

b. Reducing the regulatory flood storage capacity. All compensation for storage capacity shall occur either within the boundaries of ownership of the property being developed, or within a permanent, recorded flood control easement, shall be in the same drainage area and within a reasonable proximity to the location of the encroachment. Acceptable means of providing required compensation include: lowering of natural ground elevations within the floodplain; or, lowering of adjoining land areas to create additional floodplain; or raising of the regulatory flood elevation within the boundaries of ownership of the property being developed. All cut areas are to be graded to a slope of no less than 1.0 percent and properly stabilized to provide a non-erodible flow surface. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel. A step-backwater analysis will be required to determine the volume of flood storage created by raising the regulatory flood elevation;

c. Changing the flow characteristics of the waters of the regulatory flood as they pass both the upstream and the downstream boundaries of the property. Verification shall be provided via a step-backwater analysis; or,

d. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation. In all cases effective transitions must be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased.

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

(3) Any significant changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the City of

Decatur using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The applicant is responsible for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval. Within three (3) months of the completion of construction, the applicant shall submit as built surveys which demonstrate general conformance to the approved designs as submitted in the CLOMR application. A Letter of Map Revision (LOMR) or Letter of Map Amendment (LOMA) must be issued before the Final Plat can be approved or a Certificate of Occupancy can be issued. Significant changes or revisions shall be defined as any change to the FIRM easily observed when plotted at a scale of 1 = 1000 . The changes or revisions may be due to, but are not limited to, more current and/or superior topographic information or compensatory cut and fill grading done as a part of the development.

(d) Engineering Study Requirements for Floodplain Encroachments.

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb the regulatory floodplain. This study shall be prepared by a currently registered Professional Engineer in the State of Georgia and made a part of the application for a permit. This information shall be submitted to and approved by the City Engineer prior to the approval of any permit which would authorize the disturbance of land located within the floodplain. Such study shall include:

- (1) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- (2) Step-backwater analysis, using a method approved by the City Engineer. Cross-sections utilized in the FEMA FIS study, which may be supplemented by the applicant, and pertinent flow information shall be obtained and utilized by the applicant whenever available. Computations shall be shown duplicating FIS results and then be rerun with the proposed modifications to determine the new base flood and regulatory flood profiles;
- (3) Floodplain storage calculations based on cross-sections, at least one every 100 feet, showing existing and proposed floodplain conditions to show that regulatory floodplain storage capacity would not be diminished by the development;
- (4) If changes to the regulatory flood elevation are proposed, profiles of the channel showing the existing and proposed regulatory flood elevations must be provided; and,
- (5) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all floodplain encroachments.

(e) Floodway Encroachments.

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

(1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except when required for the construction of bridges, culverts, roadways and utilities, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the regulatory or base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and,

(2) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the City Engineer until an affirmative Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable, is issued by FEMA.

(f) Maintenance Requirements.

The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his/her property so that the flood-carrying or flood storage capacity is not diminished. The City Engineer may direct the property owner, at no cost to the City of Decatur, to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the City Engineer.

Sec. 42-257. Provisions for Flood Hazard Reduction.

(a) General Standards.

In all Areas of Special Flood Hazard the following provisions apply:

(1) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the floodplain;

(2) Substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(3) Substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;

(4) Substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;

(5) Elevated Buildings. All substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.

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 grade; and,

iii. 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. So as not to violate the "Lowest Floor" criteria of this ordinance, 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,

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

(6) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, 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;

(7) 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;

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

(9) 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;

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

(11) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.

(b) Building Standards for Structures and Buildings Within the Floodplain.

(1) Residential Buildings.

a. New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the floodplain.

b. Substantial Improvements. Substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation adjacent to the building or at least as high as the regulatory flood elevation, whichever is highest. 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 of Section 42-257 (a) (5), "Elevated Buildings."

(2) Non-Residential Buildings.

a. New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the floodplain.

b. Substantial Improvements. Substantial improvement of any structure located in A1- 30, AE, or AH zones, may be authorized by the City Engineer to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the regulatory flood elevation, whichever is highest, 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 City Engineer.

(3) Accessory Structures and Facilities.

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) which are permitted to be located within the limits of the floodplain shall be designed and constructed to pass all floodwater in a manner consistent with this ordinance.

(4) Standards for Recreational Vehicles.

All recreational vehicles placed on sites must either:

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

b. The recreational vehicle must meet all the requirements for "Residential Buildings Substantial Improvements", including the anchoring and elevation requirements above.

(c) Building Standards for Structures and Buildings Authorized Adjacent to the Floodplain.

(1) Residential Buildings — For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the level of the highest base flood (100 year) elevation adjacent to

the building or at least as high as the regulatory flood elevation whichever is highest.

(2) Non-Residential Buildings — For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one (1) foot above the level of the highest base flood (100 year) elevation adjacent to the building or at least as high as the regulatory flood elevation whichever is highest.

(d) Building Standards for Streams Without Established Base Flood Elevations and/or Floodway (A-Zones).

Located within the Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones) —or— where base flood data have been provided but a Floodway has not been delineated, the City Engineer shall review and reasonably utilize any available scientific or historic base flood elevation or regulatory flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions and standards of this Section. If sufficient data are not available from these sources, then the City Engineer may accept a hydrologic assessment performed by a registered professional engineer to determine the regulatory flood and floodway elevations.

(e) Building Standards for Areas of Shallow Flooding (AO-Zones) .

Areas of Special Flood Hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. In these areas the following provisions apply:

(1) All 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 for "Elevated Buildings"

The applicant s or owner s engineer shall certify to the City Engineer that the lowest floor elevation level and the record shall become a permanent part of the permit file;

(2) 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 plus one (1) foot above the highest adjacent grade, 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; and,

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

(f) Standards for Subdivisions.

(1) All subdivision proposals shall identify the special flood hazard area and provide base flood and regulatory flood elevation data;

(2) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood or regulatory flood elevation, the lowest flood and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the City Engineer;

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

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

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

(g) Standards for Utilities.

(1) All new and replacement water supply and sanitary sewerage systems shall be designed to minimize or eliminate:

- a. infiltration of flood waters into the systems; and,
- b. discharges from the systems into flood waters.

(2) On-site waste disposal systems shall be located outside the floodplain to avoid impairment to them, or contamination from them during flooding.

Sec. 42-258. Variance Procedures.

(1) The Zoning Board of Appeals as established by the City of Decatur shall hear and decide requests for appeals or variance from the requirements of this ordinance.

(2) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the City Engineer in the enforcement or administration of this ordinance. The City Engineer shall be present at all such Zoning Board of Appeals variance proceedings and the Board shall consider the City Engineer s testimony when granting any variances.

(3) The decision of the Zoning Board of Appeals shall be final. Any person aggrieved by a decision of the Zoning Board of Appeals shall have the right to appeal de novo to the DeKalb County Superior Court .

(4) 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.

(5) 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.

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

(7) In reviewing such requests, the Zoning Board of Appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.

(8) Conditions for Variances:

c. A variance shall be issued only when there is:

1. a finding of good and sufficient cause;
2. a determination that failure to grant the variance would result in exceptional hardship; and,

3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud on or victimization of the public.

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

c. 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 be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.

d. The City Engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

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

Sec. 42-259. Violations, Enforcement and Penalties.

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

(a) Notice of Violation.

If the City Engineer determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, he/she shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered

by this ordinance without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the City Engineer by filing a written notice of appeal within fifteen (15) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient).

(b) Penalties.

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City Engineer shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City Engineer may take any one or more of the following actions or impose any one or more of the following penalties.

- (1) Stop Work Order. The City Engineer may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order

shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.

(2) Withhold Certificate of Occupancy. The City Engineer may refuse to authorize a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(3) Suspension, Revocation or Modification of Permit. The City Engineer may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City Engineer may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(4) Penalties. In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the City Engineer shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours notice shall be sufficient) after the City Engineer has taken one or more of the actions described above, the City Engineer may issue a citation to the applicant or other responsible person, requiring such person to appear in municipal court to answer charges for such violation. Any violation of this ordinance is punishable, upon conviction, according to the provisions of section 1-12 of the City Code. Each day any violation of this ordinance shall continue shall constitute a separate defense.

Sec. 42-260. Administrative Appeal and Judicial Review.

(a) Administrative appeal.

Any person aggrieved by a decision or order of the City Engineer may appeal in writing within fifteen (15) days after the issuance of such decision or order to the Zoning Board of Appeals of the City of Decatur and shall be entitled to a hearing before the Zoning Board of Appeals of the City of Decatur within thirty (30) days of receipt of the written appeal.

- (1) The Zoning Board of Appeals shall hear and decide appeals when it is alleged an error in any requirement, interpretation, decision, or determination is made by the City Engineer in the enforcement or administration of this ordinance.
- (2) The Zoning Board of Appeals shall consider the testimony of the City Engineer, who shall be present at such hearings, and may consider all technical evaluations, relevant factors, field conditions, and all standards specified in this and other relevant sections of this ordinance.
- (3) The Zoning Board of Appeals after conducting a public hearing may affirm or dismiss the notice of violation filed by the City Engineer and/or may dismiss or adjust the amount of any civil penalties levied by the City Engineer in connection with the notice of violation.

(b) **Judicial Review.**

Any person aggrieved by a decision or order of the City Engineer after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of DeKalb County.

Sec. 42-261. Severability.

If any article, section, subsection, paragraph, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this ordinance.

This ordinance shall become effective on April 1, 2004.

Approved this 15th of March, 2004.

Attest: /s/ Peggy Merriss
Peggy Merriss