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ORDINANCE NO. 10- _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE, BY AMENDING ARTICLE I, SECTION 10-1.101, DEFINITIONS AND ARTICLE VIII, FLOODPLAIN MANAGEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

SECTION 1: Portions of Section 10-1.101 of the Code of Laws of Leon County, Florida, are hereby amended as follows:

Sec. 10-1.101 Definitions.

FEMA shall mean Federal Emergency Management Agency

Flood protection elevation shall mean an elevation determined by either subsection (1), (2), ~~or (3)~~, or (4) where a parcel is located in or adjacent to a drainage area subject to flooding, and for all parcels regardless of their location, subsection ~~(4)~~ (5) as set forth below:

- (1) where no base flood elevation has been determined by an engineering study or can not accurately be determined due to the lack of essential engineering data, three feet above the highest reasonably anticipated or historically recorded elevation of surface water in the drainage area where the development activity is to take place; or
- (2) where a less than fully developed upstream watershed was ~~assumed~~ determined and a base flood elevation was then determined either by an engineering study or by determining the depth of the discharge/flow over a natural topographic saddle, three feet above the level of the base flood elevation in the drainage area where the development activity is to take place; or
- (3) where a fully developed upstream watershed was ~~assumed~~ determined and a base flood elevation was then determined either by an engineering study or by determining the depth of the discharge/flow over a natural topographic saddle, one and one-half feet above the level of the base flood elevation in the drainage area where the development activity is to take place; ~~and~~ or
- (4) when a depth number is specified for flood hazard areas designated on the Flood Insurance Rate Map as zone AO, the lowest floor, including basement, shall be elevated to at least as many feet as the depth number above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including

1 basement, shall be elevated to no less than two feet above the highest adjacent
2 grade; and
3

4 (5) in order to prevent flood damage due to overland sheet flow, a minimum of one
5 foot higher than the finished grade elevation at a distance of five feet from the
6 foundation for detached single family, duplex, triplex and quadraplex structures,
7 except that garages and basements shall be protected in accordance with Section
8 10-8.301(k). If this minimum is lower than any of the flood protection elevations
9 specified in (1), (2), (3) and (4) above, then the highest flood protection elevation
10 shall apply. An exception to this one foot minimum requirement can be granted if
11 it is demonstrated to the satisfaction of the County Administrator or designee that
12 no adverse flooding impacts will occur to the structure.

13
14 Historic Structure means any structure that is:

- 15 a) Listed individually in the National Register of Historic Places (a listing maintained by
16 the Department of Interior) or preliminarily determined by the Secretary of the
17 Interior as meeting the requirements for individual listing on the National Register:
- 18 b) Certified or preliminarily determined by the Secretary of the Interior as contributing to
19 the historical significance of a registered historic or a district preliminarily
20 determined by the Secretary to qualify as a registered historic district:
- 21 c) Individually listed on the Florida inventory of historic places, which has been
22 approved by the Secretary of the Interior; or
- 23 d) Individually listed on a local inventory of historic places in communities with historic
24 preservation programs that have been certified either:
 - 25 1. By the approved Florida program as determined by the Secretary of the Interior,
26 or
 - 27 2. Directly by the Secretary of the Interior.

28
29 NAVD shall mean a common technical abbreviation for North American Vertical Datum,
30 which refers to an elevation in relation to a known reference point, which for purposes of
31 this chapter shall be the mean sea level based on the 1988 adjustment.
32

33 Repetitive loss means flood related damage sustained by a structure on two separate
34 occasions during a 10-year period for which the cost of repairs at the time of each such
35 flood event, on the average, equals or exceeds 25 percent of the market value of the
36 structure before the damage occurred.
37

38 Substantial damage means damage of any origin sustained by a structure whereby the
39 cost of restoring the structure to its before damaged condition would equal or exceed 50
40 percent of the market value of the structure before the damage occurred. This term also
41 includes “repetitive loss” structures as defined herein.
42

43 Substantial improvement shall mean any repair, reconstruction or improvement of a
44 structure, the cost of which equals or exceeds 50 percent of the market value of the
45 structure, either (1) before the improvement or repair is started, or (2) if the structure has
46 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. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.~~

reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative 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 that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

~~Watercourse shall be defined by the associated 10-year floodplain for~~ mean any natural or artificial stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, street, roadway, swale, or wash, in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, banks or bed.

SECTION 2: ARTICLE VIII., FLOODPLAIN MANAGEMENT, of the Code of Laws of Leon County, Florida, is hereby amended as follows:

ARTICLE VIII. FLOODPLAIN MANAGEMENT

DIVISION 1. GENERALLY

Sec. 10-8.101. Short title.

The provisions of this article shall constitute and be known and may be titled as the floodplain management ordinance of the county adopted pursuant to the authority granted local government under ~~Title 44 CFR 59 and 60~~ Chapter 125, Florida Statutes. The ~~e~~County ~~a~~AAdministrator or designee shall administer and enforce all the provisions of this article. Any designee of the ~~e~~County ~~a~~AAdministrator shall be established in writing.

Sec. 10-8.102. Definitions.

As stated in section 10-1.101, the provisions of section 10-1.101 apply to this article. The following words, terms and phrases, when used in this article, shall have the

1 meanings ascribed to them in this section, except where the context clearly indicates a
2 different meaning:

3
4 Basement means any area of a building having its floor sub-grade (below ground level)
5 on all sides.

6
7 Building—see structure

8
9 ~~Development shall mean any manmade change to property for which either a stormwater~~
10 ~~management permit is required pursuant to section, or for which a building permit is~~
11 ~~required by the governmental entity having jurisdiction over the geographic area~~
12 regulated by this article improved or unimproved real estate, including, but not limited to
13 buildings or other structures, mining, dredging, filling, grading, paving, excavating,
14 drilling operations, or storage of materials or equipment.

15
16 FIRM-see Flood insurance rate map

17
18 Lowest floor means the lowest floor of the lowest enclosed area (including basement).
19 An unfinished or flood resistant enclosure, used solely for parking of vehicles, building
20 access, or storage, in an area other than a basement, is not considered a building's lowest
21 floor, provided that such enclosure is not built so as to render the structure in violation of
22 the applicable nonelevation design standards of this ordinance.

23
24 Manufactured home means a structure, transportable in one or more sections, which is
25 built on a permanent chassis and designed to be used with or without a permanent
26 foundation when connected to the required utilities. The term also includes park trailers,
27 travel trailers, and similar transportable structures placed on a site for 180 consecutive
28 days or longer and intended to be improved property.

29
30 Manufactured home park or subdivision means a parcel (or contiguous parcels) of land
31 divided into two or more manufactured home lots for rent or sale.

32
33 Recreational vehicle means a vehicle that is:

- 34 a) Built on a single chassis;
35 b) 400 square feet or less when measured at the largest horizontal projection;
36 c) Designed to be self-propelled or permanently towable by a light duty truck; and
37 d) Designed primarily not for use as a permanent dwelling but as temporary living
38 quarters for recreational, camping, travel, or seasonal use.

39
40 Structure means, for floodplain management purposes, a walled and roofed building,
41 including gas or liquid storage tank, that is principally above ground, as well as a
42 manufactured home.

43
44 Travel trailer shall have the same definition as "Recreational vehicle".

1 **Sec. 10-8.103. Violations.**

2
3 (a) Any person violating this article shall be punished as provided in section
4 ~~1-9~~ 10-8.201 or as provided by law.

5
6 (b) Any person may seek an injunction against any violation of the provisions
7 of this article and recover such damages as ~~he~~ he may be suffered, including but not limited
8 to, the damage to property as a result of construction in violation of the terms of this
9 article.

10
11 **Sec. 10-8.104. Interpretation.**

12
13 (a) This article shall not repeal, abrogate or impair any existing easement,
14 covenant, deed restriction, or ordinance; however, where this article may conflict or
15 overlap, whichever is more restrictive shall prevail.

16
17 (b) In interpreting the applicability and requirements of this article, all
18 provisions contained herein shall be considered minimum requirements.

19
20 (c) The degree of flood protection required by this article is considered
21 reasonable for regulatory purposes and is based on scientific and engineering
22 considerations. Larger floods can and will occur on occasion. Flood heights may be
23 increased by man-made or natural causes. This article does not imply that land outside
24 the areas of special flood hazard or uses permitted within such areas will be free from
25 flooding or flood damage, and it is specifically recognized that there are areas that flood
26 or are floodprone which are not designated on the flood insurance rate maps (FIRM's),
27 flood hazard boundary maps (FHBM's) or flood boundary and floodway maps (FBFM's).
28 This article shall not create liability on the part of the county or on any officer or
29 employee thereof for any flood damage that results from reliance on this article or any
30 administrative decision lawfully made hereunder.

31
32 **Sec. 10-8.105. Applicability.**

33
34 This article shall be effective throughout the unincorporated areas of the county
35 and within any incorporated area of the county upon the execution of an interlocal
36 agreement with the incorporated area specifying the terms for the implementation and
37 enforcement of this article within such incorporated area.

38
39 **Sec. 10-8.106. ~~When p~~Permits, certification requiredments.**

40
41 All real property identified as subject to flooding and as special flood hazard areas
42 by the Flood Insurance Study (FIS), FIRM's (dated August 18, 2009), FHBM's and
43 FBFM's promulgated by the Federal Emergency Management Agency or the Department
44 of Housing and Urban Development, Federal Insurance Administration and any
45 subsequent revisions thereto, which maps are hereby adopted by reference and declared
46 to be a part of this article, ~~are~~ is subject to the permitting provisions hereof. All other real

1 property shall require certification as set forth in Subsection 10-8.202(1). The FIS and
2 FIRMs are on file at the Leon County Department of Growth and Environmental
3 Management Office.

4
5 **Sec. 10-8.107. Development restricted.**

6
7 No development shall take place within any area designated on the FIRM's,
8 FHBM's or FBFM's as special flood hazard areas unless permitted in accordance with the
9 provisions of this article.

10
11 **Sec. 10-8.108. Placement of fill restricted.**

12
13 No fill shall be placed within the channel of a river, other watercourse or a
14 regulated floodway.

15
16
17 **DIVISION 2. ADMINISTRATION AND ENFORCEMENT**

18
19 **Sec. 10-8.201. Enforcement procedures.**

20
21 Whenever the county determines that violation of this article has occurred, the
22 county shall:

23
24 (1) Immediately issue written notice to the ~~permittee~~ property owner of the
25 nature and location of the alleged noncompliance, demonstrating failure to
26 comply with the approved application and permit, and specifying what
27 remedial steps are necessary to bring the project into compliance. The
28 permittee shall immediately, conditions permitting, commence the
29 recommended remedial action and shall have seven working days after
30 receipt of such notice, or such longer time as may be allowed by the
31 county, to complete the remedial action set forth in such notice.

32
33 (2) If remedial work specified under Subsection (1) of this section is not
34 completed in the time allowed, or if development of land is being carried
35 out without an approved ~~application~~ permit, the county is authorized to
36 issue a stop work order immediately; such stop work order shall specify
37 grounds thereof, and shall specify wherein the noncompliance has
38 occurred; the stop work order shall be directed not only to the person
39 owning the land upon which the development is occurring, but also a
40 separate stop work order shall be directed to the person actually
41 performing the physical labors of the clearing and development or the
42 person responsible for the construction, directing ~~him~~ the person forthwith
43 to cease and desist all or any portion of the work upon all or any
44 geographical portion of the project, except such remedial work as is
45 deemed necessary to bring the project into compliance.

- 1 (3) ~~If the person fails to complete the recommended remedial action within~~
2 ~~the time allowed, or fails to take the recommended remedial action after~~
3 ~~the issuance of a stop work order under Subsection (2) of this section, then~~
4 ~~the county may issue a stop work order on all or any portions of the entire~~
5 ~~project. If the person in violation, including the owner, fails to complete~~
6 ~~recommended remedial action within the time allowed, fails to take the~~
7 ~~recommended remedial action after the issuance of a stop work order, or if~~
8 ~~any person continues any development activity in violation of a stop work~~
9 ~~order, the County Administrator or designee may refer such matter to a~~
10 ~~duly established code enforcement board or shall initiate any other~~
11 ~~enforcement action authorized by law.~~
- 12
- 13 (4) A copy of any such notice under Subsection (1) of this section or stop
14 work order under Subsection (2) of this section shall be served upon the
15 ~~person by either personal delivery or certified mail affected persons by~~
16 ~~certified mail, return receipt requested; by hand delivery by the sheriff or~~
17 ~~other law enforcement officer, code inspector, or other person designated~~
18 ~~by the local governing body; or by leaving the notice at the violator's usual~~
19 ~~place of residence with any person residing therein who is above 15 years~~
20 ~~of age and informing such person of the contents of the notice. In addition~~
21 ~~to providing notice by certified mail, hand delivery or leaving at the~~
22 ~~person's usual place of residence, notice may also be served by publication~~
23 ~~once during each week for four consecutive weeks (four publications~~
24 ~~being sufficient) in a newspaper of general circulation in Leon County, or~~
25 ~~by posting for at least ten days in at least two locations, one of which shall~~
26 ~~be the property upon which the violation is alleged to exist and the other~~
27 ~~of which shall be at the front door of the Leon County Courthouse. A~~
28 ~~notice of violation or stop work order may be directed not only to the~~
29 ~~person owning the land upon which the noncompliance is occurring, but~~
30 ~~also to the person actually performing the physical labors of development~~
31 ~~activity or to any person actually physically committing the violation.~~
- 32
- 33 (5) Upon completion of remedial steps required by a notice under Subsection
34 (1) of this section, or by a stop work order under Subsections (2) or (3) of
35 this section, the county shall forthwith issue a notice of compliance and
36 cancellation of such notice of noncompliance or stop work order.
- 37
- 38 (6) Review of stop work order. Any person who feels aggrieved by any stop
39 work order issued by the county under this article or by failure to cancel
40 same after performance of remedial steps, shall have the right to request a
41 hearing before the Board of County Commissioners ~~within seven days~~
42 ~~after making such request. An appeal must be filed, in writing, with the~~
43 ~~County Administrator or designee within 30 days after the stop work~~
44 ~~order, and shall identify with particularity the decision being appealed and~~
45 ~~the grounds for the appeal. An appeal shall be considered at a hearing by~~
46 ~~the Board of County Commissioners at a regular or special meeting within~~

30 days after the filing of the appeal. At such hearing the county and the aggrieved person shall present any evidence bearing on the propriety of such stop work order or continuation of same. At the conclusion of the hearing, and based upon the evidence presented to it, the Board of County Commissioners shall:

- a. Affirm the stop work order and the remedial steps required therein and direct continuing effect and enforcement of the stop work order until the offending portion of the project has been brought into compliance; or
- b. Affirm the stop work order, but upon such modified remedial steps as the Board of County Commissioners may find necessary and appropriate, and direct continuing effect and enforcement of such stop work order until the offending portion of the project has been brought into compliance; or
- c. Reverse, cancel or suspend the stop work order upon a finding that remedial steps are not necessary or that required remedial steps have been taken, or upon a finding that a stop work order is not appropriate or necessary during the performance of required remedial steps.

(7) ~~At its next meeting, the Board of County Commissioners~~ The County Administrator or designee, after at least three days' notice in writing to the person, may revoke the permit issued pursuant to this article for any project which the ~~board~~ County Administrator or designee finds, upon evidence presented ~~to it~~ that the person has proceeded with work on the offending portion of any project, except specified remedial work to bring the project into compliance with the approved plan, while under a stop work order ~~which has neither been reversed, canceled nor suspended by the Board of County Commissioners pursuant to this article.~~

(8) ~~The Board of County Commissioners~~ County Administrator or designee may revoke or modify conditions of a permit whenever the granting of the permit was based on incorrect information furnished by the applicant or ~~whatever~~ whenever substantial changes in the watershed have occurred since approval of the permit.

Sec. 10-8.202. Certification for certain construction.

Every application for a building development permit for a new ~~building to be constructed~~ construction shall be accompanied by a flood certificate from a professional civil engineer ~~registered~~ licensed in the state unless the application is for an accessory structure ~~of minimal value and is less than 300 square feet.~~ The certificate at a minimum shall have the following information submitted to the county:

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- (1) The certificate shall certify one of the following statements:
 - (a) All of the property is at or above the flood protection elevation as set forth in subsections (1), (2), ~~and (3)~~, and (4) of the flood protection elevation definition in section 10-1.101.
 - (b) Some or all of the property is located below the 100-year flood elevation (base flood elevation). The base flood elevation must be provided along with the flood protection elevation and the required ~~minimum finished~~ lowest floor elevation.
 - (c) All of the property is located at or above the 100-year flood elevation (base flood elevation), but some or all of the property is lower than the flood protection elevation as set forth in subsections (1), (2), ~~and (3)~~, and (4) of the flood protection elevation definition in section 10-1.101. The base flood elevation must be provided along with the flood protection elevation and the required ~~minimum finished~~ lowest floor elevation.
- (2) Where appropriate, the certificate may certify one of the following statements:
 - (a) The site location of the proposed building is ~~not~~ in an area of the parcel that is at or above the 100-year (base flood) elevation as determined by a site plan with building location shown; or
 - (b) The following narrative describes the area of the parcel that is at or above the 100-year (base flood) elevation. This statement should be followed by a layman's description of the area outside of the floodplain.
- (3) The Flood Insurance Rate Map (FIRM) panel number on which the property is located.
- (4) The parcel ID number.
- (5) The designated zone for the parcel from the FIRM maps.
- (6) A statement certifying that the site has been visited by the engineer.
- (7) The flood certificate must be signed and sealed by a professional civil engineer ~~registered~~ licensed in the state in accordance with 61G15-23.002 F.A.C. The certificate will not be accepted if it is older than five years.
- (8) The engineer shall review all potential flood information sources to make

1 a determination as to whether the property is located within a flood zone.

2 At a minimum, the following sources must be reviewed:

3
4 (a) Topographic information in two-foot or four-foot contour intervals.

5
6 (b) FIRM ~~rate~~ maps and accompanying flood profiles.

7
8 (c) Any study or model available through the county files that would
9 have pertinent flood elevation information.

10
11 (d) Any plat, subdivision, site plan or environmental permit file that
12 would have pertinent flood elevation information.

13
14 (e) Aerial photos.

15
16 (9) If any portion of the parcel is located in a flood area other than zone AE,
17 whether FEMA designated or not, ~~then~~ the engineer shall determine an
18 appropriate base flood elevation, a corresponding flood protection
19 elevation, and a required minimum ~~finished~~ lowest floor elevation.
20 Supporting documentation for the base flood elevation must also be
21 submitted with the flood certificate. At a minimum the following must be
22 done:

23
24 (a) Topographic information must be reviewed with two-foot ~~or four-~~
25 ~~foot~~ contour intervals. This information should be submitted with
26 the flood certificate. Upstream and downstream constrictions
27 should be analyzed.

28
29 (b) Review any model or plat available through the county files that
30 would have pertinent base flood elevation information.

31
32 (c) Where sufficient information is not conclusive for determining a
33 ~~100-year~~ base flood elevation for a FIRM designated A zone, the
34 elevation should be determined as identified in FEMA's
35 publication titled: "Managing Floodplain Development in
36 Approximate Zone A Areas", April 1995 or its successor.

37
38 **Sec. 10-8.203. Permit procedures.**

39
40 (a) No development activity shall commence on any real property identified
41 ~~as a special flood hazard area on the FIRM's, FHBM's or FBFM's~~ without a permit.

42
43 (b) If the development activity is such that a building development permit is
44 required but a stormwater management permit pursuant to this chapter is not required, the
45 permit application shall be submitted to the building inspection department.
46

1 (c) If a stormwater management permit is required, the information which is
2 required to be submitted hereunder may be made a part of the stormwater management
3 permit application.
4

5 (d) The following information shall be required if Section 10-8.202(1)(b) or
6 (c) of the flood certificate applies: on the application for a permit:
7

8 (1) The elevation in relation to ~~mean sea level~~ the North American Vertical
9 Datum (NAVD) of the lowest floor (including basement) of all structures.
10

11 (2) Elevation in relation to mean sea level to which any nonresidential
12 structure has been floodproofed.
13

14 (3) A FEMA Floodproofing eCertificate from a ~~registered~~ licensed
15 professional engineer or architect that the nonresidential floodproofed
16 structure meets the floodproofing criteria contained in Subsection ~~10-~~
17 ~~1736(d)~~ 10-8.301(d) .
18

19 (4) A FEMA Elevation eCertificate from a ~~registered~~ licensed professional
20 engineer, architect or surveyor certifying that the lowest floor elevation
21 (including basement) of a residential structure is at or above the flood
22 protection elevation.
23

24 (e) No ~~building development~~ permit or stormwater management permit shall
25 be issued until the requirements for the permit required hereunder have been satisfied.
26

27 (f) Applications shall be reviewed by the county pursuant to Florida Statutes
28 553.79(14). The county shall notify the applicant that the project is approved or denied.
29

30 (g) Prior to the issuance of a certificate of occupancy for, or actual occupancy
31 of, any building for which a permit was required by this article, the permittee shall submit
32 to the county a certification utilizing the most current FEMA elevation certification form.
33 The form shall be completed by a ~~registered~~ licensed surveyor, engineer or architect.
34

35 (h) Any applicant aggrieved by the action of any official charged with the
36 enforcement of this article shall have the right of appeal to the Board of Adjustments and
37 Appeals. The appeal shall be filed with the ~~eCounty~~ County Administrator or designee, in
38 writing, not less than 30 calendar days prior to the next regularly scheduled meeting of
39 the Board of Adjustments and Appeals designating the reasons for the appeal. The appeal
40 shall be heard at the next regularly scheduled Board of Adjustments and Appeals
41 meeting.
42

43 (i) The applicant must demonstrate that all applicable Federal, State of
44 Florida, and local permits have been obtained.
45

46 **Sec. 10-8.204. Revocation of permit.**

1
 2 The ~~intentional~~ misrepresentation of any fact on an application for the permit
 3 required by section 10-8.203 shall be cause for the ~~e~~County ~~a~~Administrator or designee to
 4 revoke such permit. The revocation of such permit will be grounds for the county to ~~seek~~
 5 ~~an injunction~~ issue a stop work order prohibiting continued construction of the
 6 development.

7
 8 **Sec. 10-8.205. Duties of county.**

9
 10 The county shall:

- 11
 12 (1) Notify the state National Flood Insurance Program (NFIP) coordinating
 13 office and adjacent communities prior to any alteration or relocation of a
 14 ~~floodway~~ stream channel and submit evidence of such notification to the
 15 Federal Emergency Management Agency.
 16
 17 (2) Assure that maintenance is provided within the altered or relocated
 18 ~~floodways~~ portion of any watercourse so that the flood-carrying capacity
 19 is ~~not diminished~~ maintained.
 20
 21 (3) Record the actual elevation of the lowest floor of all new ~~or~~ and
 22 substantially improved structures in accordance with section 10-8.203 and
 23 maintain records of all such information.
 24
 25 (4) Record the actual elevation to which all new ~~or~~ and substantially improved
 26 structures have been floodproofed in accordance with section 10-8.203
 27 and maintain records of all such information.
 28
 29 (5) Interpret the FIRM's, FHBM's and FBFM's as needed regarding the exact
 30 location of the boundaries of the area of special flood hazard and
 31 floodway. Any person aggrieved by the decision of the county shall have
 32 the opportunity to appeal such interpretation as provided in Subsection 10-
 33 8.203 (h).
 34
 35 (6) Obtain, review and reasonably utilize any base flood elevation and
 36 floodway data available from a federal, state or other source, as criteria for
 37 requiring that new construction, ~~substantial improvements~~, or other
 38 development in zone A comply with provisions of section ~~10-1736~~ 10-
 39 8.301 and section ~~10-1737~~ 10-8.302.
 40
 41 (7) Notify applicants that compliance with this article does not relieve
 42 applicant's responsibility to acquire permits from those other
 43 governmental agencies from which approval for the development is
 44 required.
 45
 46 (8) Review all permit applications to determine whether proposed building

1 sites will be reasonably safe from flooding.

2
3 (9) Review subdivision proposals and other proposed new development,
4 including manufactured home parks or subdivisions, to determine whether
5 such proposals will be reasonably safe from flooding. If a subdivision
6 proposal or other proposed new development is in a floodprone area, any
7 such proposals shall be reviewed to assure that (i) all such proposals are
8 consistent with the need to minimize flood damage within the floodprone
9 area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and
10 water systems are located and constructed to minimize or eliminate flood
11 damage, and (iii) adequate drainage is provided to reduce exposure to
12 flood hazards. Floodplains and base flood elevation data shall be
13 identified in accordance with Section 10-4.202(a)(1)e.

14
15 **Sec. 10-8.206. Variances.**

16
17 The Board of Adjustment and Appeals shall have the authority to grant variances
18 from the strict application of provisions of this article.

19
20 (1) No variance shall be issued within any designated floodway if any
21 increase in flood levels during the base flood discharge would result
22 except when pursuant to subsection 10-4.327 (3).

23
24 (2) Conditions for granting of variance:

25
26 a. Variance shall be approved only upon:

- 27
28 1. A determination that the variance is the minimum
- 29 necessary, considering the flood hazard, to afford relief;
- 30
31 2. A showing of good and sufficient cause;
- 32
33 3. A determination that failure to grant the variance would
- 34 result in exceptional hardship to the applicant; and,
- 35
36 4. A determination that the granting of a variance will not
- 37 result in increased flood heights, additional threats to public
- 38 safety, extraordinary public expense, a nuisance, a fraud on
- 39 or victimization of the public, or a conflict with existing
- 40 local laws or ordinances.

41
42 b. Any applicant to whom a variance is granted shall be given written
43 notice specifying the difference between the base flood elevation
44 and the elevation to which the structure is to be built and stating
45 that: ~~the cost of flood insurance will be commensurate with the~~
46 ~~increased risk resulting from the reduced lowest floor elevation.~~

- 1 1. The issuance of a variance to construct a structure below
- 2 the base flood elevation will result in increased premium
- 3 rates for flood insurance up to amounts as high as \$25 for
- 4 \$100 of insurance coverage, and
- 5 2. Such construction below the base flood level increases risks
- 6 to life and property.
- 7
- 8 c. The county shall be notified of all variance actions by the Board of
- 9 Adjustment and Appeals and report any approved variance to the
- 10 Federal Emergency Management Agency upon request.
- 11
- 12 (3) Criteria for evaluating applications for variance. In passing upon variance
- 13 application, the board of adjustment and appeals shall consider all
- 14 technical evaluations, all relevant factors, all standards specified in other
- 15 sections of this article, and:
- 16
- 17 a. The danger that materials may be swept by floodwaters onto other
- 18 lands to the injury of others;
- 19
- 20 b. The danger to life and property due to flooding or erosion damage;
- 21
- 22 c. The susceptibility of the proposed facility and its contents to flood
- 23 damage and the effect of such damage on the individual owner;
- 24
- 25 d. The importance of the services provided by the proposed facility to
- 26 the community;
- 27
- 28 e. The necessity to the facility of a waterfront location, where
- 29 applicable;
- 30
- 31 f. The availability of alternative locations, not subject to flooding or
- 32 erosion damage, for the proposed use;
- 33
- 34 g. The compatibility of the proposed use with existing and anticipated
- 35 development;
- 36
- 37 h. The relationship of the proposed use to the comprehensive plan
- 38 and floodplain management program for that area;
- 39
- 40 i. The safety of access to the property in time of flood for ordinary
- 41 and emergency vehicles;
- 42
- 43 j. The expected heights, velocity, duration, rate of rise and sediment
- 44 transport of the floodwaters and the effects of wave action, if
- 45 applicable, expected at the site;
- 46

- k. 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; and
- l. In addition, upon consideration of the factors above and the purposes of this article, the board of adjustment and appeals may attach such conditions to the granting of a variance as it deems necessary to further the purposes of this article.

DIVISION 3. STANDARDS FOR FLOOD HAZARD REDUCTION

Sec. 10-8.301. Generally.

(a) All new construction and substantial improvements located within or in close proximity to special flood hazard areas designated on the FIRM's, FHBM's or FBFM's, or located within or in close proximity to other (i.e. non-designated) areas that are subject to flooding, shall be constructed by methods and practices that minimize flood damages. All new construction and substantial improvements shall be designed and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrostatic loads, including the effects of buoyancy.

(b) All new ~~or~~ and replacement water supply systems and sanitary sewage systems constructed in the special flood hazard areas shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters, and all on-site waste disposal systems shall be located so as to avoid impairment of them or contamination during flooding.

(c) All new construction and substantial improvements of residential structures located within or in close proximity to special flood hazard areas designated on the FIRM's, FHBM's or FBFM's, or located within or in close proximity to other (i.e. non-designated) areas that are subject to flooding, shall be designed to have the lowest floor (including basement) elevated to at least the flood protection elevation, ~~level or depth number specified for flood hazard areas unless the county is granted an exception by the Federal Emergency Management Agency (FEMA) for the allowance of basements.~~

~~Additions~~ Non-substantial improvements to existing residential structures are allowed to maintain the lowest floor at the flood protection elevation level as originally permitted unless identified by FEMA as a repetitive loss structure, but in no case shall the non-substantial improvement be lower than the current base flood elevation. All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the flood protection elevation and is securely anchored to an adequately anchored foundation system in accordance with the provisions of subsections (a) and (e) of this section.

1
2 (d) New construction ~~or~~ and substantial improvement of any commercial,
3 industrial or other nonresidential structure shall:

4
5 (1) Have the lowest floor, including basement, elevated to at least the flood
6 protection elevation; or

7
8 (2) Together with attendant utility and sanitary facilities, be floodproofed so
9 that below the flood protection elevation the structure is watertight and
10 with walls substantially impermeable to the passage of water and with
11 structural components having the capability of resisting hydrostatic and
12 hydrodynamic loads and effects of buoyancy.

13
14 A ~~registered~~ licensed professional engineer or architect shall certify in accordance
15 with section 10-8.203 that the standards of this subsection are satisfied.

16
17 (e) All manufactured homes shall be anchored to resist flotation, collapse ~~or~~
18 and lateral movement by providing ~~over the top and frame ties to~~ ground anchors
19 installed in compliance with applicable state and federal guidelines requirements for
20 resisting wind forces.

21
22 (f) In the alteration of flood hazard areas, where a development encompasses
23 a portion of any special flood hazard area and requires the placement of fill, excavation,
24 dredging or otherwise alters the physical condition of the floodplain, the following
25 information, certified by a ~~registered~~ licensed professional engineer, shall be submitted to
26 the county:

27
28 (1) Typical cross-section of the existing and proposed channel and special
29 cross-sections of the areas depicting the floodway and floodplain
30 boundary.

31
32 (2) Plan view of the channel showing the location of all features affecting the
33 flow.

34
35 (3) Hydrographs, flood-routing calculations and step-backwater ~~curve~~ profiles
36 of the proposed waterway corresponding to a storm recurrence interval of
37 100 years.

38
39 (4) Engineering evaluation of all potential increases in flood hazards to the
40 adjacent upstream and downstream private or public lands and facilities
41 located thereon.

42
43 (5) Provisions for eliminating any and all adverse impacts on such lands and
44 facilities at no public cost.

45
46 (6) Plans for compliance with ~~Article IV, Division 3, Subdivisions 1 and 2~~

1 sections 10-4.301 through 10-4.329.

2
3 (g) An evacuation plan indicating alternative vehicular access and escape
4 routes shall be filed with the county office of disaster preparedness for manufactured
5 home parks and manufactured home subdivisions located within zone A as designated on
6 the FIRM's, FHBM's or FBFM's.

7
8 (h) Electrical, heating, ventilation, water well casing, plumbing and air-
9 conditioning equipment and other service facilities shall be designed and/or located so as
10 to prevent water from entering or accumulating within the components during conditions
11 of flooding.

12
13 (i) All construction below the base flood elevation shall be constructed with
14 materials resistant to flood damage. For all new construction ~~and substantial~~
15 ~~improvements,~~ with fully enclosed areas below the lowest floor that are subject to
16 flooding shall be designed to automatically equalize hydrostatic flood forces on exterior
17 walls by allowing for the entry and exit of floodwaters. Designs for meeting this
18 requirement must either be certified by a ~~registered~~ licensed professional engineer or
19 architect or must meet or exceed the following minimum criteria: A minimum of two
20 openings having a total net area of not less than one square inch for every square foot of
21 enclosed area subject to flooding shall be provided. The bottom of all openings shall be
22 no higher than one foot above adjacent grade. Openings may be equipped with screens,
23 louvers, or other coverings or devices provided that they permit the automatic entry and
24 exit of floodwaters.

25
26 (j) For areas outside FIRM designated special flood hazard areas, ~~In order~~ to
27 prevent flood damage due to overland sheet flow, all newly constructed detached single
28 family, duplex, triplex and quadraplex structures and substantial improvements of
29 structures, regardless of their location in or outside of an area subject to flooding, shall
30 have their lowest ~~finished~~ floor elevation a minimum of one foot higher than the finished
31 grade elevation at a distance of five feet from the foundation. An exception to this
32 requirement can be granted if it is demonstrated to the satisfaction of the County
33 Administrator or designee that no adverse flooding impacts will occur to the structure.

34
35 (k) The site shall be graded to prevent overland sheetflow from entering into
36 garages and basements. Adequate drainage paths around structures on slopes are
37 required to guide floodwaters around and away from proposed structures.

38
39 (l) All applicants for development orders pertaining to any parcel on which a
40 structure is currently located partially or wholly within a 100-year floodplain, or on
41 which a structure will be constructed, erected, installed, or placed partially or wholly
42 within a 100-year floodplain, or on which any part of a vehicular use area is partially or
43 wholly within the 100-year floodplain, as determined by a flood certificate prepared in
44 accordance with Section 10-8.202 ~~or, if exempt therefrom, as determined by the County~~
45 ~~Administrator or designee,~~ must comply with the following requirements unless exempt
46 therefrom below:

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(1) The applicant must obtain from every owner of such parcel a duly executed and recorded release and waiver in a form approved by the County Administrator or designee, unless such form already encumbers the parcel, releasing and waiving any and all past, present, and future claims against the County for any damages arising from the flooding of such parcel and agreeing to not seek any relief from such flooding under the County's Flooded Property Acquisition and Management Program nor from any other such disaster relief programs funded by the County, unless such relief to the applicant is otherwise approved by the Board.

(2) If the development order includes a permit for the erection of a ~~mobile~~ manufactured home owned by someone other than the owner of such parcel, the applicant shall also obtain from every owner of such ~~mobile~~ manufactured home a duly executed release and waiver in a form approved by the County Administrator or designee releasing and waiving any and all past, present, and future claims against the County for damages arising from the flooding of such parcel and agreeing not to seek any relief from such flooding under the County's Flooded Property Acquisition and Management Program nor from any other such disaster relief programs funded by the County, unless such relief to the applicant is otherwise approved by the Board.

~~(3) Even if the location of an existing or proposed structure lies outside of the 100 year floodplain, the applicant must still obtain the release and waiver if any part of a vehicular use area on the parcel is partially or wholly within the 100 year floodplain.~~

~~(4)~~ If the County's geographical information system (GIS) contour data is used to approximate the floodplain location instead of survey data, then the release and waiver will be required if the location of an existing or proposed structure, or any part of a vehicular use area, is within 20 feet of the floodplain delineated by using the contour data, unless determined otherwise by the County Administrator or designee.

(4) An exemption to all of the requirements of subsection (1) may be granted by the County Administrator or designee if it is satisfactorily demonstrated that no adverse flooding impacts will occur to the structure and the vehicular use area will allow for continuous access to the structure.

(m) Travel trailers and recreational vehicles placed on sites within a floodplain shall be on the site for fewer than 180 consecutive days or be fully licensed and ready for highway use. Travel trailers and recreational vehicles are ready for highway use if they

1 are on their wheels or jacking system, are attached to the site only by quick disconnect
2 type utilities and security devices, and have no permanently attached additions.
3
4

5 **Sec. 10-8.302. Standards for construction in regulated floodways.**

6
7 The following provisions shall apply for construction in regulated floodways:
8

9 (1) The placing of fill on any property within a regulated floodway as
10 identified on the FIRM's, FHBM's or FBFM's shall be prohibited unless in
11 accordance with subsection's (2) through (5) below.
12

13 (2) All development is prohibited unless certification by a ~~registered~~ licensed
14 professional engineer is provided demonstrating that the development will
15 not result in any increase in flood levels or hazardous velocities of
16 stormwater during the occurrence of the base flood discharge. No new
17 construction, substantial improvements, or other development shall be
18 permitted within a floodway on the FIRM, unless it is demonstrated the
19 cumulative effect of the proposed development, when combined with all
20 other existing and anticipated development, will not increase the water
21 surface elevation of the base flood at any point within the community. An
22 exception to the requirements of this subsection regarding increases to
23 flood levels is allowed as stated in Subsection 10-8.302(4). The
24 information required in Subsection 10-8.301(f) shall be submitted.
25

26 (3) Upon such certification, all development shall comply with section 10-
27 8.301 and this section.
28

29 (4) Approval may be provided for certain development in Zones A1-30, AE,
30 and AH on the community's FIRM which increase the water surface
31 elevation of the base flood, provided that the community first applies for a
32 conditional FIRM revision, fulfills the requirements for such a revision as
33 established under the provisions in §65.12 Code of Federal Regulations
34 and receives approval of the County Administrator or designee.
35

36 (5) No residential homes shall be placed in a floodway.
37
38

39 **SECTION 3. Conflicts.** All ordinances or parts of ordinances in conflict with the
40 provisions of this Ordinance are hereby repealed to the extent of such conflict, as of the
41 effective date of this Ordinance, except to the extent of any conflicts with the
42 Tallahassee-Leon County Comprehensive Plan, as amended, which provisions shall
43 prevail over any parts of this Ordinance which are inconsistent, either in whole or in part,
44 with the Comprehensive Plan.
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SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective date. This ordinance shall be effective according to law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this ____ day of _____, 2010.

LEON COUNTY, FLORIDA

BY: _____
BOB RACKLEFF, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY