

**ORDINANCE NO. 521  
FLOOD PLAN PREVENTION ORDINANCE  
CITY OF BAY ST. LOUIS, MISSISSIPPI**

**Table of Contents**

<b>ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES</b>	
Section A. Statutory Authorization	2
Section B. Findings of Fact	2
Section C. Statement of Purpose	2
Section D. Objectives	2
Section E. Methods of Reducing Flood Losses	2
<b>ARTICLE 2. DEFINITIONS</b>	<b>3</b>
<b>ARTICLE 3. GENERAL PROVISIONS</b>	
Section A. Lands to Which This Ordinance Applies	8
Section B. Basis for Establishing the Special Flood Hazard Area	8
Section C. Establishment of Floodplain Development Permit	8
Section D. Compliance	8
Section E. Abrogation and Greater Restrictions	8
Section F. Interpretation	9
Section G. Warning and Disclaimer of Liability	9
Section H. Penalties for Violation	9
<b>ARTICLE 4. ADMINISTRATION</b>	
Section A. Designation of Flood Damage Prevention Ordinance Administrator	9
Section B. Permit Procedures	9
Section C. Powers, Duties and Responsibilities of the Floodplain Administrator	10
<b>ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION</b>	
Section A. General Standards	11
Section B. Specific Standards	12
Section C. Standards for Accessory Buildings in all Zones beginning with The Letter 'V'	14
Section D. Standards for Subdivision Proposals and Other Proposed Development	14
Section E. Coastal High Hazard Areas	15
Section F. Critical Facilities	17
<b>ARTICLE 6. VARIANCE PROCEDURES</b>	
Section A. Designation of Variance and Appeals Board	16
Section B. Duties of Variance and Appeals Board	16
Section C. Variance Procedures	16
Section D. Conditions for Variances	17
Section E. Variance Notification	17
Section F. Historic Structures	17
Section G. Special Conditions	17
Section H. Floodway	17
<b>ARTICLE 7. SEVERABILITY</b>	<b>17</b>
<b>ARTICLE 8. CONFLICTS</b>	<b>18</b>

**FLOOD DAMAGE PREVENTION ORDINANCE  
CITY OF BAY ST. LOUIS, MS**

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

**SECTION A. STATUTORY AUTHORIZATION.**

The Legislature of the State of Mississippi has in Title 17, Chapter 1, Mississippi Code 1972 Annotated delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Bay St. Louis does hereby adopt the following floodplain management regulations.

**SECTION B. FINDINGS OF FACT.**

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

**SECTION C. STATEMENT OF PURPOSE.**

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

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

**SECTION D. OBJECTIVES.**

The objectives of this ordinance are:

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

**SECTION E. METHODS OF REDUCING FLOOD LOSSES.**

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

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

## **ARTICLE 2. DEFINITIONS.**

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

**A8, A10, A11, AH and AE zones** is the Area of Special Flood Hazard with Base Flood Elevations determined. (A8, A10, A11, & AH are shown on prior FIRMs)

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

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

**AH zone** is an area of 100-year shallow flooding where depths are between one to three feet (usually shallow ponding), with Base Flood Elevations shown.

**AO zone** is an area of 100-year shallow flooding where depths where depths are between one to three feet (usually sheet flow on sloping terrain), with flood depths shown.

**Appeal** means a request for a review of the Floodplain Manager's interpretation of any provision of this ordinance or a request for a variance.

**A8, A10, AH, AE, and AH zones** are SFHAs that result from the decertification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources. (A8, A10, A11, & AH are shown on prior FIRMs)

**Area of Shallow Flooding** means a designated AH or AO zone on the community's Flood Insurance Rate Map with flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** is the land in the Floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

**B and X zones (shaded)** are areas of 500-year flood, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and areas protected by certified levees from the base flood. (B zone is shown on prior FIRMs)

**Base flood** means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

**Base Flood Elevation (BFE)** is the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A8, A10, A11, V13, and VE that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year. (A8, A10, A11, AH, & V13 are shown on prior FIRMs)

**Breakaway wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. This is associated with zones beginning with the letter V.

**Building see Structure.**

**C and X (unshaded) zones** are areas determined to be outside the 500-year Floodplain.

**Coastal High Hazard Area** is a Special Flood Hazard Area, extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRRM as Zone VE.

**Community** is a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**Community Rating System (CRS)** is a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum Floodplain Management requirements to develop extra measures to provide protection from flooding.

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

**DFFIRM** means the Digital Flood Insurance Rate Map produced by FEMA to determine the BFE and for insurance rate purposes.

**D zone** is an area in which the flood hazard is undetermined.

**Dam** is any artificial barrier, including appurtenant works, constructed to impound or divert water, waste-water, liquid borne materials, or solids that may flow from it saturated. All structures necessary to maintain the water level in an impoundment or to divert a stream from its course will be considered a dam.

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

**Development Permit** is issued by the Building Department for any development activities within the SFHA, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, the location of the foregoing and a drainage plan including existing and proposed grade elevations established by a registered land surveyor.

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

**Elevation Certificate** is a certified statement that verifies a building's elevation information.

**Emergency Program** means the first phase under which a community participates in the NFIP (National Flood Insurance Program). It is intended to provide a first layer amount of insurance at subsidized rates on all insurable buildings in that community before the effective date of the initial FIRRM.

**Enclosure Below the Lowest Floor** see "Lowest Floor."

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

**Executive Order 11988 (Floodplain Management)** was issued by President Carter in 1977. This order requires that no federally assisted activities be conducted in or have the potential to affect identified Special Flood Hazard Areas, unless there is no practicable alternative.

**Existing Construction** includes any structure for which the "Start of Construction" commenced before September 11, 1970 or for the annexed area with the effective date of February 27, 1992 being September 9, 1970 or for the area annexed with the effective date of June 30, 2006 being September 9, 1970.

**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 either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community before September 11, 1970 or for the annexed area with the effective date of February 27, 1992 being September 9, 1970 or for the area with the annexation effective date of June 30, 2006 before September 9, 1970.

**Expansion to an existing manufactured home park or subdivision** includes 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).

**Fill** means a deposit of earth material placed by artificial means.

**Five-Hundred Year Flood** means the flood that has a 0.2 percent chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

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

- a.) The overflow of inland or tidal waters.
- b.) The unusual and rapid accumulation or runoff of surface waters from any source.
- c.) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** is the official hydraulic & hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

**Floodplain** means any land area susceptible to being inundated by flood waters from any source.

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

**Floodplain Administrator** is the individual charged to administer and enforce the floodplain management regulations.

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

**Floodproofing Certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating buildings to or above the BFE.

**Floodway** See Regulatory Floodway

**Floodway Fringe** means the area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

**Flood Protection Elevation** is the Base Flood Elevation plus 1 foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.

**Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of Floodplain Management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**Functionally dependent use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The City Council of the City of Bay St. Louis requires that the variance is NOT exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Highest Adjacent Grade** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

**Historic Structure** means any structure that is:

- a.) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
- b.) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district.

- c.) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d.) Individually listed on a local inventory historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or
2. Directly by the Secretary of the Interior in states without approved programs.

**Hydrologic and Hydraulic Engineering Analysis** means an analysis performed by a professional engineer, registered in the State of Mississippi, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and / or floodway boundaries.

**Increased Cost of Compliance (ICC)** means the cost to repair a substantially flood damaged building that exceeds the minimal repair cost and that is required to bring a substantially damaged building into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business policies with effective dates on or after June 1, 1997, will include ICC coverage.

**Letter of Map Change (LOMC)** is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from the SFHA.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

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

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

**Manufactured Home** means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when attached to the required utilities. The term manufactured home does not include a "Recreational Vehicle."

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

**Map Panel Number** is the four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised.

**Map Amendment** means a change to an effective NFIP map that results in the exclusion from the SFHA or an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

**Market Value** means the building value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. Market Value can be established by independent certified appraisal; replacement cost depreciated by age of building (Actual Cash Value) or adjusted assessed values.

**Mean Sea Level (MSL)** means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

**National Flood Insurance Program (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

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

**New Construction** means a structure for which the start of construction commenced on or after the effective date of a Floodplain Management Regulation adopted by a community and includes any subsequent improvements to such structure and any construction beginning on a new foundation system or construction beginning with existing foundation system and the raising of new walls.

**New Manufactured Home Park or Subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of Floodplain Regulations adopted by a community.

**Non-Residential means**, but is not limited to; small business concerns, churches, schools, farm buildings (including grain bins and silos), accessory structures, poolhouses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than 6 months duration.

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

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

**One-Hundred Year Flood (100-Year Flood)** is the flood that has a one percent or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to the 100-year flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood with the SFHA.

**Participating Community** is any community that voluntarily elects to participate in the NFIP by adopting and enforcing Floodplain Management Regulations that are consistent with the standards of the NFIP.

**Post-FIRM Construction** means construction or substantial improvement that started on or after the effective dates of the initial FIRMs of the community, which is September 11, 1970 or for the annexed area with the effective date of February 27, 1992 being September 9, 1970 or for the area annexed with the effective date of June 30, 2006 being September 9, 1970 or for the area annexed with the effective date of June 30, 2006 being September 9, 1970.

**Pre-FIRM Construction** means construction or substantial improvement, which started on or before September 11, 1970 or for the annexed area with the effective date of February 27, 1992 being September 9, 1970 or for the area annexed with the effective date of June 30, 2006 being September 9, 1970 which are the effective dates of the initial FIRMs of the community.

**Probation** is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

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

**Recreational Vehicle (RV)** means a vehicle that is:

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

**Regular Program** means the phase of the community's participation in the NFIP where more comprehensive Floodplain Management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**Regulatory Floodway** means the channel of a river or other watercourse and the adjacent land uses that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Repair** means the reconstruction or renewal of any part of an existing building.

**Repetitive Loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five percent of the Market Value of the structure before the damage occurred.

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

**Site** means any parcel of land or lot in a legally established Recreational Vehicle Park.

**Special Flood Hazard Area (SFHA)** means that portion of the Floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on our community's prior FIRMs as zones A8, A10, A11, AH, & V13 and on our community's current FIRM as zones AE & VE.

**Start of construction** (for other than new construction or substantial improvements under the Coastal Barrier Resources Act P. L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main building. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure, for Floodplain Management purposes,** means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**Structure, for insurance purposes,** means a building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site, a manufactured home built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation; or a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

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

**Substantial Damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. "Substantial Damage" also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

For the purposes of this definition, "Repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences. The term does not apply to:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Building Official and which are solely necessary to assure safe living conditions, or
- b.) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Substantial Improvement** means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure taking place during a 10-year period, the cost of which equals or exceeds fifty percent of the market value of the structure before the "Start of Construction" of the improvement. This term includes structures which have incurred "Repetitive Loss" or "Substantial Damage," regardless of the actual repair work performed. For the purposes of this definition, an improvement occurs 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 apply to:

- a.) any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Building Official and which are solely necessary to assure safe living conditions, or

- b) Any alteration of a "Historic Structure" provided that the alteration will not preclude the structure's continued designation as a "Historic Structure."

**Substantially Improved existing Manufactured Home Parks or Subdivisions** is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**Suspension** means the removal of a participating community from the NIFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NIFIP.

V zone see Coastal High Hazard Area

VI - V30 and VE zone *see Coastal High Hazard Area*

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

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

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

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

**X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on prior FIRMs) designate areas subject to inundation by the flood with a 0.2-percent annual probability of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on prior FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

**Zone** means a geographical area shown on the Flood Insurance Rate Map (FIRM) that reflects the severity or type of flooding in the area.

### **ARTICLE 3. GENERAL PROVISIONS.**

#### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all Special Flood Hazard Areas (SFHAs) and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official from available technical studies, historical information, and other available and reliable sources areas within the jurisdiction of the City of Bay St. Louis, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of the City of Bay St. Louis..

#### **SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREA.**

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for the City of Bay St. Louis, dated October 16, 2009 with the accompanying Flood Insurance Rate Maps (FIRMs) Panel Numbers 28045C 0331D, 28045C 0333D, 28045C 0334D, 28045C 0342D, 28045C 0352D, 28045C 0353D, 28045C 0354D, 28045C 0361D, and 28045C 0362D dated October 16, 2009 and other supporting data are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and / or Maps are on file with the Building Department located at 688 Hwy 90 Bay St Louis, MS 39520.

#### **SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.**

A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities in identified Special Flood Hazard Areas within the community.

#### **SECTION D. COMPLIANCE.**

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

#### **SECTION E. ABROGATION AND GREATER RESTRICTIONS.**

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

#### SECTION F. INTERPRETATION.

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

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

#### SECTION G. WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land *outside* the Special Flood Hazard Area 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 Council of the City of Bay St. Louis or any officer, or any employee of the City of Bay St. Louis for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

#### SECTION H. PENALTIES FOR VIOLATION.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 90 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful actions as is necessary to prevent or remedy any violation.

### ARTICLE 4. ADMINISTRATION.

#### SECTION A. DESIGNATION OF FLOOD DAMAGE PREVENTION ORDINANCE ADMINISTRATOR.

The City Council of the City of Bay St. Louis hereby appoints the Building Official to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

#### SECTION B. PERMIT PROCEDURES.

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

- (1) Application Stage.
  - a.) Submission of elevation information shall be required to be documented and in compliance with the latest version of FEMA's NFIP Elevation Certificate (EC); a total of three Elevation Certificates shall be required.
  - b.) An Elevation Certificate marked "Construction Drawings" shall be required in relation to mean sea level of the proposed lowest floor.
  - c.) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed.
  - d.) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the floodproofing criteria in Article 5, Section B (2) and Section C (2);
  - e.) Description of the extent to which any watercourse will be altered or relocated as result of proposed development, and;
- (2) Construction Stage:

Upon placement of the lowest floor, by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator an Elevation Certificate marked "Under Construction" of the NGVD elevation of the lowest floor, as built, in relation to mean sea level before a Framing Inspection is conducted. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

When floodproofing is utilized for a particular building, a Floodproofing Certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same then submitted to

the Floodplain Administrator. Any work undertaken prior to submission of the "Under Construction" Elevation Certificate or Floodproofing Certificate shall be at the permit holder's risk. (The Floodplain Administrator shall review the lowest floor & floodproofing elevation survey data submitted.) The permit holder immediately and prior to further progressive work being permitted to proceed shall correct deficiencies detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Finished Construction

An Elevation Certificate marked "Finished Construction" shall be required in relation to mean sea level of the completed construction before the Final Inspection is conducted; completion including the elevation of all machinery and equipment servicing the structure, notwithstanding, hydrostatic vents, if applicable.

**SECTION C. POWERS, DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The Floodplain Administrator and/or staff is hereby authorized and directed to enforce the provisions of this ordinance and other codes, regulations and technical bulletins governing floodplain management. The Floodplain Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

(1) Right of Entry

a.) Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Floodplain Administrator has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the Floodplain Administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Floodplain Administrator by this ordinance.

b.) If such building or premises are occupied, he shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

c.) If entry is refused, the Floodplain Administrator shall have recourse to every remedy provided by law to secure entry.

d.) When the Floodplain Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Floodplain Administrator for the purpose of inspection and examination pursuant to this ordinance.

(2) Stop Work Orders

a.) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(3) Revocation of Permits

a.) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

b.) The Floodplain Administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

(4.) Permit Limitations

a.) Expiration. Every permit issued shall become invalid unless work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

b.) Suspension or Revocation. The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation any ordinance or regulation or any of the provisions of this code.

- c.) Placement of Permit. The building permit or copy shall be kept on the site of the work until completion of the project.
  - (5) Fee Schedule
    - a.) Payment of Fees. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a permit be released until the additional fee, if any, has been paid.
    - b.) Schedule of Permit Fees. A fee for each permit shall be paid as required, in accordance with the schedule as established by the City of Bay St. Louis.
    - c.) Work Commencing before Permit Issuance. Any person who commences any work before obtaining the necessary permit shall be subject to a fee established by the City of Bay St. Louis that shall be in addition to the require permit fees.
- Duties of the Floodplain Administrator shall include, but not be limited to:
- (1) Review all Development Permits to assure that the permit requirements of this ordinance have been satisfied;
  - (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the Development Permit.
  - (3) Notify adjacent communities, the State NFIP Coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.
  - (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
  - (5) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Article 4, Section B (2).
  - (6) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved buildings have been floodproofed, in accordance with Article 4, Section B (2).
  - (7) Review certified plans and specifications for compliance.
  - (8) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Manager shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
  - (9) When Base Flood Elevation data has not been provided in accordance with Article 3, Section B, then the Floodplain Manager shall obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from a federal, state or other source, in order to administer the provisions of Article 5.
  - (10) Provide information, testimony, or other evidence, as needed during variance request hearings.
  - (11) When damage occurs to a building or buildings, the following actions shall be conducted:
    - a.) Determine whether damaged structures are located within the Special Flood Hazard Area;
    - b.) Conduct damage assessments for those damaged structures located in the SFHA, and;
    - c.) Make a reasonable attempt to notify owner(s) of damaged structure(s) of the requirement to obtain a Building Permit / Floodplain Development Permit prior to repair, rehabilitation, or reconstruction.

**ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

**SECTION A. GENERAL STANDARDS.**

The following provisions are required within all Special Flood Hazard Areas:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

- (4) New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, such facilities shall be located at or above the Base Flood Elevation;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "New Construction" as contained in this ordinance; and,
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced.
- (11) New construction and substantial improvement of any building shall have the lowest floor (including basement) at least one foot above the centerline of the designated street, unless the topography of the property does not allow for strict adherence as determined by the Floodplain Administrator.
- (11) New construction and substantial improvements built on fill shall be constructed on the property designed and compacted fill that extends beyond the building walls before dropping below the base flood elevation, and shall have appropriate protection from erosion and scour.
- (12) If the provisions of this ordinance conflict with other adopted codes, regulations or ordinances of the City, the most restrictive code, regulations or ordinance shall govern.

#### SECTION B. SPECIFIC STANDARDS.

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

- (1) Residential Construction. New construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces on exterior walls of enclosures that are subject to flooding, shall be provided in accordance with standards of Article 5, Section B (3).
- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or non-residential building (or manufactured home) shall have the lowest floor, including basement, elevated at or above the level of the Base Flood Elevation. Buildings located in all zones beginning with the letter A may be flood-proofed in lieu of being elevated provided that all areas of the building below the Base Flood Elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator.
- (3) Elevated Buildings. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the Base Flood Elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (ii) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade);
    - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions;

- (iv) Limited in use to parking, storage, and building access; and,
  - (v) Limited to less than 300 square feet.
- b.) Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
  - c.) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
  - d.) Property owners shall be required to execute a Floodplain Venting Affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will not violate the requirements of this Article 5, Section B.
- (4) Detached storage buildings, shed, or other like accessory improvements, excluding detached garages, carports, and boat houses are used primarily for parking and storage of vehicles and will be allowed up to no more than 500 square feet of unfinished, non-partitioned and enclosed storage space. Such storage space shall not be used for human habitation and shall be limited to storage of items that can withstand exposure to the elements and have low flood damage potential. The storage space shall be constructed of flood resistant or breakaway materials, and equipment and service utilities, such as electrical outlets, shall be limited to essential lighting and other incidental uses, and must be elevated or floodproofed. Openings to preclude hydrostatic loading and allow ventilation as provided in Article 5 Section B. (3) shall also be required. These Accessory Structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (5) Accessory improvements and other apparent structures shall be firmly anchored to prevent flotation that may result in damage to other structures.
- (6) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor or the detached accessory building shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area at any time.

(7) Standards for Manufactured Homes and Recreational Vehicles.

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

Manufactured homes must be:

- (i) Elevated on a permanent foundation, and
- (ii) Have its lowest floor elevated at or above the Base Flood Elevation, and
- (iii) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- b.) Excepting manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

- (i) The manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, and
- (ii) The lowest floor of the manufactured home is elevated at or above the Base Flood Elevation, or
- (iii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.

All Recreational Vehicles placed on sites must either:

- (i) Be on site for fewer than 60 consecutive days and shall leave the site for at least seven (7) consecutive days and obtain a Development Permit before being able to return to the same site.
- (ii) Be fully licensed and titled as an RV or park model and ready for highway use, or
- (iii) Must meet all the requirements for new construction, including anchoring and elevation requirements of this Article 5, Section B (7) (a) or Article 5, Section B (7) (b) (i) and (ii), above.

- (iv) A Floodplain Development Permit shall be required for all recreational vehicles.
- (c) A Recreational Vehicle is ready for highway use if it is licensed and insured in accordance with the state of Mississippi Motor Vehicle Regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- d) All principally above ground gas or liquid storage tanks shall be anchored to prevent flotation and lateral movement.
- (8) Floodways. Located within areas of special flood hazard adopted by reference in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply:
- a.) Prohibit encroachments, including fill, new construction, substantial improvements and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge;
- b.) If Article 5, Section B (7) (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- c.) Prohibit the placement of manufactured homes (mobile homes), except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring standards of Article 5, Section A (2), and the elevation standards of Article 5, Section B (1) (2) and the encroachment standards of this Article 5, Section B (7) (a), are met.

**SECTION C. STANDARDS FOR ACCESSORY BUILDINGS IN ALL ZONES BEGINNING WITH THE LETTER V.**

For all accessory buildings in SFHA designated 'V' please, reference the requirements stated in Section E below.

**SECTION D. STANDARDS FOR SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENT.**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;
- (4) Base Flood Elevation data shall be provided for all new subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than five lots or five acres, whichever is the lesser.
- (5) Where only a small portion of the subdivision lot or lots is in a designated zone 'A' Special Flood Hazard Area inundated by 100-year flood with no Base Flood Elevations determined and there is sufficient ground slope on the site to avoid possible flooding of structures in zone 'X' areas determined to be outside 500 year Floodplain. The Floodplain Administrator may waive the requirement for a study to determine the Base Flood Elevations.
- (6) In order for the Floodplain Administrator to consider waiving the requirement of Section D (4) the applicant must provide an accurate topographic data and map for the lot or lots in question certified by a licensed land surveyor and/or professional civil engineer indicating sufficient detail to allow a thorough review by the Floodplain Administrator.
- (7) All Preliminary Plans, Final Plans and Special Subdivision Plans shall identify and delineate all Special Flood Hazard Areas including floodways. The map panel number of the appropriate FIRM shall be noted.
- (8) If a waiver is granted for Section D (4) the subdivider/applicant must comply with the following:
- a.) File restrictive covenants on the lot or lots prohibiting construction within the designated Special Flood Hazard Area inundated by the 100-year flood and requirement for elevated lowest floor elevation.
- b.) Place a statement on the face of the plat prohibiting construction in the designated Special Flood Hazard Area inundated by the 100-year flood.
- (9) Notice must be sent to the State NFIP Coordinator indicating that a waiver has been granted for Section D (4) providing written details of the waiver for any waiver granted by the Floodplain Administrator.

## SECTION E. COASTAL HIGH HAZARD AREAS.

Located within the Special Flood Hazard Area established in Article 3, Section B are Coastal High Hazard Areas, designated as V1-V30, VE and/or V zones. These areas have Special Flood Hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

- (1) All new construction and substantial improvements in Zones V1-V30, and V zones shall be elevated on pilings and columns so that:
  - a.) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at or above the base flood level; and,
  - b.) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in a given year (100-year mean recurrence interval).
- (2) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Section E (1) a.) and b.).
- (3) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1-V30, and V zones. The Floodplain Administrator shall maintain a record of all such information.
- (4) All new construction shall be located landward of the reach of mean high tide.
- (5) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood laticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a Breakaway Wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Solid breakaway wall enclosures will not exceed 299 square feet. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - a.) Breakaway wall collapse shall result from water load less than that which would occur during the Base Flood; and,
  - b.) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any give year.
- (6) If Breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- (7) Prohibit the use of fill for structural support of buildings. Under the buildings or structures, no fill may be used except for minor landscaping and minor site grading for drainage purposes. Fill may be used on coastal building sites for landscaping and site grading as long as the fill does not interfere with the free passage of floodwaters and debris underneath the building or cause changes in flow direction during coastal storms such that will cause additional damage to buildings on the site or to any adjacent buildings. Certification by a professional engineer or architect shall be submitted along with design calculations demonstrating that no adverse impacts will result. (For guidance, see FEMA Technical Bulletin #5 Free of Obstruction Requirements).
- (8) Prohibit man-made alteration of sand dunes that would increase potential flood damage. An example of unacceptable placement of fill would be construction of a small berm or retaining wall that is backfilled and used for landscaping purposes when it has been determined that ramping or deflection of floodwaters will adversely affect adjacent buildings and thereby create additional flood damage potential.
- (9) All manufactured homes to be placed or substantially improved within Zones V1-V30, and V on the community's FIRM on sites:
  - a.) Outside of a manufactured home park or subdivision,
  - b.) In a new manufactured home park or subdivision,
  - c.) In an expansion to an existing manufactured home park or subdivision, or

- d.) In an existing manufactured home park or subdivision on which a manufactured home has incurred "Substantial Damage" as the result of a flood; shall meet the standards of this Article 5, Section E (1) through (8) and that manufactured homes placed or Substantially Improved on other sites in an existing manufactured home park or subdivision with Zones V1-V30, and V on the FIRM meet the requirements of Article 5, Section B (7) (a) through (b).
- (10) Recreational vehicles placed on sites within Zones V1-V30, and V on the community's FIRM either:
  - a.) Be on site for fewer than 60 consecutive days and shall leave the site for at least seven (7) consecutive days and obtain a Development Permit before being able to return to the same site.
  - b.) Be fully licensed and titled as an RV or park model and ready for highway use, or
  - c.) Must meet all the requirements for new construction, including anchoring and elevation requirements of this Article 5, Section B (7) (a) or Article 5, Section B (7) (b) (i) and (ii), above.
  - d.) A Floodplain Development Permit shall be required for all recreational vehicles.

**SECTION F. CRITICAL FACILITIES.**

Construction of new or substantially improved critical facilities shall be, to the maximum extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to the 500-year floodplain or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the Base Flood Elevation shall be provided to all critical facilities to the maximum extent possible.

**ARTICLE 6. VARIANCE PROCEDURES.**

**SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD.**

The Board of Adjustments and Appeals as established by the City of Bay St. Louis shall hear and decide appeals and requests for variances from requirements of this ordinance.

**SECTION B. DUTIES OF VARIANCE AND APPEALS BOARD.**

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Manager in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Board may appeal such decision to the City Council.

**SECTION C. VARIANCE PROCEDURES.**

In passing upon such applications, the Board of Adjustments and Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (1) The evaluation must be based on the characteristics *unique* to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself *not* to the structure, its inhabitants, or its owners;
- (2) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The danger of life and property due to flooding or erosion damage;
- (5) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (6) The importance of the services provided by the proposed facility to the community;
- (7) The necessity to the facility of a waterfront location, where applicable;
- (8) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (9) The compatibility of the proposed use with existing and anticipated development;
- (10) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (11) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (12) The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(13) 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.

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

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

#### SECTION D. CONDITIONS FOR VARIANCES.

(1) Variances shall only be issued when there is:

a.) A showing of good and sufficient cause;

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

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

(2) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a "Historic Structure," a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.

(3) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the Lowest Floor is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (See Article 6, Section E.)

(4) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency or Mississippi Emergency Management Agency upon request. (See Section E below)

#### SECTION E. VARIANCE NOTIFICATION.

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and;

(2) Such construction below the Base Flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Chancery Clerk for Hancock County and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

#### SECTION F. HISTORIC STRUCTURES.

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

#### SECTION G. SPECIAL CONDITIONS.

Upon consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Adjustments may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this ordinance.

#### SECTION H. FLOODWAY.

Variances shall not be issued by a community within any designated regulatory Floodway if any increase in flood levels during the base flood discharge would result.

#### ARTICLE 7. SEVERABILITY.

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

**ARTICLE 8. CONFLICTS**

That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed including Chapter 50 in the Code of Ordinances for the City of Bay St. Louis and/or Ordinance No. 500 Flood Damage Prevention Ordinance.

This ordinance having first been reduced to writing was adopted at a public meeting of the City of Bay St. Louis City Council on August 7, 2009 with the effective date of this Ordinance of October 16, 2009 wherein the vote was as follows:

Ward 1 Doug Seal	Voting: Yea
Ward 2 Wendy McDonald	Voting: Yea
Ward 3 Jeffrey J. Reed	Voting: Yea
Ward 4 Robert J. Compretha	Voting: Yea
Ward 5 Joey Boudin	Voting: Yea
Ward 6 Ray Kidd	Voting: Absent
Councilman-at-Large William Taylor	Voting: Yea

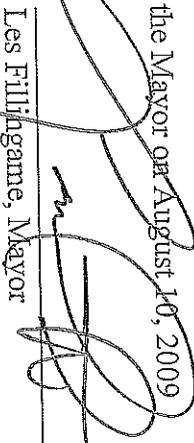
Whereupon President Taylor declared the foregoing Ordinance passed the 7<sup>th</sup> day of August, 2009.

I, Jane Carrow, Clerk of Council, for the City of Bay St. Louis, do hereby certify that the foregoing Ordinance No. 521 was passed by the City Council at its regular meeting on August 7, 2009.

Ordinance No. 521 was presented by the Council Clerk to the Mayor on August 10, 2009.

  
Jane Carrow, Clerk of Council

Ordinance No. 521 was approved by the Mayor on August 10, 2009

  
Les Fillingame, Mayor