

**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 it 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. The term does not include a recreational vehicle or a park trailer or other similar vehicle, except as described in the last part of this definition, or a gas, or a liquid storage tank.

**Subrogation** means an action brought by FEMA when flood damages have occurred, a flood insurance claim 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

**Substantial Improvement** means any combination of reconstruction, rehabilitation, or other improvement of a structure taking place since passage of initial ordinance in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the structure before the "start of construction" of the improvement. The costs for determining substantial improvement include the costs of additions. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

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 Code Enforcement Official and which are solely necessary to assure safe living conditions, provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners or;
- 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** means manufactured home parks or subdivisions 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, with or without probation, of a participating community from the NFIP because the community failed to adopt and enforce the compliant floodplain management regulations required for participation in the NFIP.

**Variance** is a grant of relief from the requirements of this ordinance.

**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 any flowing body of water including a river, creek, stream, or a branch.

**Water surface elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

**X Zones (shaded)** are areas of 0.2 percent chance flood that are outside of the SFHA subject to the one percent chance 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.

**X Zones (unshaded)** are areas determined to be outside the 0.2 percent chance floodplain.

**Zone** means a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map 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 areas within jurisdiction of the City of Hernando.

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Desoto County Flood Insurance Study, dated May 5, 2014 with the accompanying Flood Insurance Rate Map(s) (FIRM) panel(s) number(s), 28033C0207H, 28033C0240H, 28033C0235H, 28033C0230H, 28033C0220H, 28033C0209H, 28033C0206H, 28033C0093H, 28033C0090H, and 28033C0070H and other supporting data are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at: 475 West Commerce Street, Hernando, MS 38632

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#### **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 areas of special flood hazard 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 areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Mayor and Board of Aldermen of the City of Hernando or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

**SECTION H. ENFORCEMENT, PENALTIES, AND VIOLATIONS.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance 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 \$500.00 or imprisoned for not more than 30 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each act of violation and 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 are necessary to prevent or remedy any violation.

**ARTICLE 4. ADMINISTRATION.**

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

The Mayor and Board of Aldermen of the City of Hernando hereby appoints the Director of Planning to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator and/or the administrator.

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**SECTION B. PERMIT PROCEDURES.**

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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.) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings, which will be submitted on a FEMA Form 81-31 (Elevation Certificate) by a state of Mississippi registered engineer or surveyor;
  - b.) Elevation in relation to mean sea level to which any non-residential building in an A Zone will be floodproofed;
  - c.) Certificate from a state of Mississippi registered professional engineer or architect that the nonresidential flood-proofed building will meet the floodproofing criteria in Article 4, Section B (2), Article 5, Section B (2) and Section D (2):
  - d.) No floodplain development permit can be issued to any mobile, modular, or permanently constructed residence, building or facility unless the owner, lessee, or developer obtains a Notice of Intent from the Mississippi State Health Department, pursuant to the MS Individual On-Site Wastewater Disposal System

Law (2009), for a recommendation of a sewage system or Proof of Compliance from the proper Sewer and Water District;

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

(2) Construction Stage:

Upon establishment/placement of the lowest floor, before framing continues, to include any approved floodproofing method by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD or NGVD elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer, who is authorized by the state of Mississippi to certify such information, and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect, who is authorized by the state of Mississippi to certify such information, and certified by same. Floodproofing shall be required to be two feet above the base flood elevation.

Any work undertaken prior to submission of the certification 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.

In any lot or lots/areas that have been removed from the special flood hazard area via a Letter of Map Revision Based on Fill, and if the top of fill level is below the freeboard elevation, all new structures, additions to existing buildings or substantial improvement must meet the required community freeboard elevation.

(3) Finished Construction:

Upon completion of construction, a FEMA elevation certificate which depicts all finished construction elevations is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the permit holder to the Floodplain Administrator.

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

The Floodplain Administrator and his or her designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties of the 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) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Additionally, require the permittee to obtain and submit copies of any required federal or state permits and maintain them on file with the development permit.
- (3) Perform a minimum of three inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first inspection upon the establishment of the Base Flood Elevation reference mark at the development site; the second upon the establishment of the structures footprint prior to pouring the slab or the establishment of the lowest floor in an elevated foundation system; and the final inspection upon completion and submission of the required finished construction elevation certificate.

- (4) Verify any required setback distances.
  - (5) Verify that all placement of fill or grading is according to certified plans. Assure that any fill being used as part of the structures foundation system (not allowed in a CHHA) is both clean material and properly compacted and placed. A professional certification that any structure built on fill is reasonably safe from flooding can be requested of the builder/developer.
  - (6) Verify adequate placement and size of any required flood vents in regard to the number of openings, their location, size, and height above ground level.
  - (7) Ensure that a crawlspace has adequate vents or openings and that the interior grade is at or above the exterior grade.
  - (8) Verify that the structure's utilities, duct work, and HVAC systems are at or above the base flood elevation.
  - (9) Notify adjacent communities, the NFIP State Coordinator, and other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse.
  - (10) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
  - (11) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction and substantially improved buildings, in accordance with Article 4, Section B (2). Information must be recorded on the FEMA Elevation Certificate Form 81-31.
  - (12) Verify and record the actual elevation (in relation to mean sea level) to which the new construction and substantially improved buildings have been floodproofed, in accordance with Article 4, Section B (2). Information must be recorded on the FEMA Elevation Certificate Form 81-31.
  - (13) Review certified plans and specifications for compliance.
  - (14) Make the necessary interpretation where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
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- (15) Obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source when base flood elevation data or floodway data have not been provided in accordance with Article 3, Section B, in order to administer the provisions of Article 5.
  - (16) Provide information, testimony, or other evidence, as needed during variance request hearings.
  - (17) Conduct the following actions when damage occurs to a building or buildings:
    - 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.
  - (18) Perform such other inspections as may be required to insure compliance with the other provisions of this ordinance.

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

##### **SECTION A. GENERAL STANDARDS FOR ALL ZONES.**

In all areas of special flood hazard the following provisions are required:

- (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. Dry stacked blocks (stacked without the use of mortar or cement to bond them together) are not to be used as an anchor/elevation method. 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 a minimum of two feet 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.
- (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 shall meet the requirements of "new construction" as contained in this ordinance.
- (11) All gas and liquid storage tanks (both above and below ground) shall be adequately anchored to prevent flotation, lateral movement resulting from hydrodynamic forces, and the effects of buoyancy.
- (12) When new construction and substantial improvements are located in multiple flood zones or in a flood zone with multiple base flood elevations, they shall meet the requirement for the more stringent flood zone and the highest base flood elevation.
- (13) New construction and substantial improvement of any building (both in and outside the SFHA) 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.
- (14) All new horizontal additions must have the lowest floor and all HVAC elevated to the regulatory base flood elevation.
- (15) Storage or processing of materials that are hazardous, flammable, explosive, or in time of flooding could become buoyant and pose an obstruction to flow, are prohibited within the community special flood hazard areas, to include identified floodways. Storage of material or equipment not otherwise prohibited shall be firmly anchored to prevent flotation.

**SECTION B. SPECIFIC STANDARDS FOR RIVERINE ZONES.**

In all areas of special flood hazard designated on the community's FIRM, where base flood elevation data have been provided (excluding CHHA and Coastal AE Zone), as set forth in Article 3, Section B, the following provisions, in addition to the standards of Article 5, Section A, are required:

- (1) **Residential Construction.** New construction and substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than two feet 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 (4). New development proposals will be designed, to the maximum extent practicable, so residential building sites, walkways, driveways, and roadways are located at natural grade with elevation not less than the base flood elevation and with evacuation routes leading directly out of the special flood hazard area.
  - (2) **Non-Residential Construction.** New construction and substantial improvement of any commercial, industrial, or non-residential building (including manufactured building) shall have the lowest floor, including basement, elevated to no lower than two feet above the base flood elevation. Buildings located in all A Zones may, together with attendant utility and sanitary facilities, be floodproofed in lieu of being elevated provided that all areas of the building below the base flood elevation plus a minimum of two feet of freeboard 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. Dry floodproofing is allowed only where flood velocities are less than or equal to five feet per second. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A Flood Emergency Operation Plan and an Inspection and Maintenance Plan must be provided by the design professional for the building. Such certification shall be provided to the Floodplain Administrator. New development proposals will be designed, to the maximum extent practicable, so non-residential building sites, walkways, driveways, and roadways are located at natural grade with elevation not less than the base flood elevation and with evacuation routes leading directly out of the special flood hazard area.
  - (3) In special flood hazard areas with base flood elevations (AE Zones) but without floodways, no encroachments, including fill material or structures, shall be permitted unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification must be supported by technical data that conforms to standard hydraulic engineering principles.
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- (4) **Enclosures.** New construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor 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. Enclosed areas, including crawl spaces, shall be used solely for parking of vehicles, building access, and storage.
    - a.) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following criteria:
      - (i) Provide a minimum of two openings, on different sides of each enclosed area; if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls;
      - (ii) The total net area of all openings shall be at least one square inch for each square foot of enclosed area, or the openings shall be designed and the construction documents shall include a statement that the design and installation will provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters;
      - (iii) The bottom of all openings shall be no higher than one foot above interior grade (which must be equal to in elevation or higher than the exterior grade);
      - (iv) Openings shall allow the passage of a three inch sphere.

- (v) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions and automatically equalize hydrostatic flood loads on exterior walls, and;
  - 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 finished or partitioned into separate rooms.
  - d.) Property owners shall be required to execute a flood openings/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 violate the requirements of Article 5, Section B. Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance.
- (5) Detached storage buildings, sheds, or other like accessory improvements, excluding detached garages, carports, and boat houses, shall solely be used for parking of vehicles and storage. 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. Flood openings in accordance with the standards of Article 5 Section B (4) 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. Accessory improvements and other appurtenant 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 of the structure or the detached accessory building shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area.
- (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 elevation and anchoring and the flood openings requirements of Article 5, Section B (4). Manufactured homes must be:
    - (i) Elevated on a permanent foundation to have its lowest floor elevated to no lower than two feet above the base flood elevation, and;
    - (ii) Securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - b.) All manufactured homes placed or substantially improved, excepting manufactured homes that have incurred substantial damage as a result of a flood, in an existing manufactured home park or subdivision must be elevated so that:
    - (i) The lowest floor of the manufactured home is elevated to no lower than two feet above the base flood elevation and be securely anchored to an adequately anchored foundation support system to resist floatation, collapse, and lateral movement, or
  - c.) 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 consecutive days and obtain a new permit before returning to the same site.
    - (ii) Be fully licensed 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) above.



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.

- (8) **Floodways.** Located within the 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 flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply
- a.) Encroachments, including fill, new construction, placement of manufactured homes, substantial improvements, and other development, are prohibited.
  - b.) Permissible uses within the floodway may include: general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. Also lawns, gardens, athletic fields, play areas, picnic grounds, and hiking and horseback riding trails are acceptable uses, provided that they do not employ structures or fill. These permissible uses may require certification (with supporting technical data) by a registered professional engineer demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. The uses in this subsection are permissible only if and to the extent that they do not cause any increase in flood levels during the base flood discharge.

#### SECTION C. STANDARDS FOR STREAMS WITHOUT BASE FLOOD ELEVATIONS AND FLOODWAYS.

When base flood elevation data and floodway data are not available in accordance with Article 3, Section A, in Special Flood Hazard Areas without base flood elevation data, new construction and substantial improvements shall be elevated or floodproofed to elevations established by the community. The following provisions in addition to the standards of Article 5 Section A and the enclosure standards of Article 5 Section B (4) shall apply:

- (1) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is lesser, include within such proposals base flood elevation data;
- (2) The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of Article 5. When such data are available, standards of Article 5, Section B, shall apply. If data is not available from Article 5 Section C (1) or outside sources, then the following provisions shall apply.
- (3) No encroachments, including fill material or other development, shall be located within a distance of the stream bank equal to five times the width of the stream at the top of the bank or twenty feet each side from the top of the bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge. The enclosure standards of Article 5, Section B (4) shall apply.
- (4) The Floodplain Administrator shall require that a single lot applicant develop the base flood elevation for the development site, utilizing accepted engineering practices and procedures. Upon review of the submitted data, the Administrator may accept or reject the proposed base flood elevation. When such data is accepted, standards of Article 5, Section B, shall apply.
- (5) Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

- (7) Require that all manufactured homes be placed or installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Dry stacked blocks (stacked without the use of mortar or cement to bond them together) are not allowed within the Special Flood Hazard Area.

**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, and;
- (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 50 lots or five acres, whichever is the lesser.

**SECTION E. CRITICAL FACILITIES.**

Construction of new and substantially improved critical facilities shall be located outside the limits of the special flood hazard area (one percent chance floodplain). Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available and access to the facilities remains available during a 0.2 percent chance flood. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet six inches above the base flood elevation at the site (or to the 0.2 percent chance flood elevation whichever is greater). Floodproofing and sealing measures must be implemented to ensure that toxic substances will not be displaced by or released into floodwaters. Multiple access routes, elevated to or above the 0.2 percent flood elevation, shall be provided to all critical facilities to the maximum extent possible. Critical facilities must not only be protected to or above the 0.2 percent chance flood, but must remain operable during such an event. The community's flood response plan must list facilities considered critical in a flood, since loss of access can cause a critical situation. Other facilities in low risk flood zones that may also be needed to support flood response efforts must be included on the critical facility list. The use of any structure shall not be changed to a critical facility, where such a change in use will render the new critical facility out of conformance with this section. The list of the operators of the critical facilities affected by flooding must be updated at least annually, as part of the community critical facility planning procedures.

**ARTICLE 6. VARIANCE PROCEDURES.**

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

The Planning Commission as established by the Mayor and Board of Aldermen of the City of Hernando 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 Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the DeSoto County Circuit Court, as provided in Mississippi Code Annotated, § 11-51-75 (1972).

**SECTION C. VARIANCE PROCEDURES.**

In passing upon such applications, the Planning Commission shall consider all technical evaluations, relevant factors, and 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 and the community;
- (6) The importance of the services provided by the proposed facility to the community;
- (7) The necessity of the facility to be at 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 transport of the floodwaters 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 and culverts.
- (14) Upon consideration of factors listed above, and the purpose of this ordinance, the Planning Commission 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) The provisions of this ordinance are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this ordinance, considering the flood hazard, to afford relief. 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.(See Article 6, Section F.)
  - (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.
  - (4) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and Mississippi Emergency Management Agency upon request. (See Article 6 Section E.)

- (5) Upon consideration of the factors listed above and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) Variances shall not be issued "after the fact."

**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 DeSoto Chancery Court Clerk 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" only 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 Planning Commission 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 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.

This ordinance having first been reduced to writing was adopted at a public meeting of the ~~governing body~~, <sup>Hernando Mayor and Board of Aldermen</sup> on April 15th, 2014, wherein the vote was as follows:

{Title/Name}	<u><i>[Signature]</i></u>	<u><i>[Signature]</i></u>
{Title/Name}	<u><i>E. R. Domy Boyer</i></u>	<u><i>[Signature]</i></u>
{Title/Name}	<u><i>[Signature]</i></u>	<u><i>[Signature]</i></u>

{Title/Name} Mark White Alderman 4  
{Title/Name} Jeff Holt Alderman Ward 6  
{Title/Name} Adrienne Alderman II  
{Title/Name} \_\_\_\_\_



SIGNED: [Signature]

ATTESTED BY: [Signature]

ORDINANCE SHALL TAKE EFFECT MAY 5, 2014

SO ADOPTED, on the 15<sup>th</sup> day of April, 2014, at the regular meeting of the Mayor and Board of Alderman for the City of Hernando.

This ordinance shall become effective on May 5, 2014 as the same was found necessary by the governing authorities for the immediate preservation of the public health and safety of the City of Hernando.

CITY OF HERNANDO

\_\_\_\_\_  
MAYOR CHIP JOHNSON

Motion made by Alderman Miller.  
Second made by Alderman Lauderdale.

**VOTE:**

	YES	NO
Alderman Lauderdale	X	___
Alderman Bryant	X	___
Alderwoman Brooks	---	---
Alderman Higdon	X	___
Alderman Hobbs	X	___
Alderman McClendon	X	___
Alderman Miller	X	___

ATTESTED TO:

By: \_\_\_\_\_  
CITY CLERK

(SEAL)

Alderman McLendon recognized Tom Ferguson for receiving the GIVE (Governor's Initiative for Volunteer Excellence) award

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**GO INTO CLOSED SESSION**

---

Motion was duly made by Alderman Hobbs, seconded by Alderman Higdon to authorize to go into closed session to discuss going into executive session for negotiations. A vote was taken with the following results:

Those voting "Aye": Alderman McLendon, Alderman Hobbs, Alderman Lauderdale, Alderman Bryant, Alderman Miller, and Alderman Higdon.

Those voting "Nay": None.

ORDERED AND DONE this the 15<sup>th</sup> day of April, 2014.

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**GO INTO EXECUTIVE SESSION**

---

Motion was duly made by Alderman McLendon, seconded by Alderman Hobbs to authorize to go into executive session for negotiations. A vote was taken with the following results:

Those voting "Aye": Alderman Hobbs, Alderman Lauderdale, Alderman Bryant, Alderman Miller, Alderman Higdon, and Alderman McLendon.

Those voting "Nay": None.

ORDERED AND DONE this the 15<sup>th</sup> day of April, 2014.

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**COME OUT OF EXECUTIVE SESSION**

---

Motion was duly made by Alderman Lauderdale, seconded by Alderman Hobbs to authorize to come out of executive session. A vote was taken with the following results:

Those voting "Aye": Alderman Hobbs, Alderman Lauderdale, Alderman Bryant, Alderman Miller, Alderman Higdon, and Alderman McLendon.

Those voting "Nay": None.

ORDERED AND DONE this the 15<sup>th</sup> day of April, 2014.

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**ADJOURN**

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There being no further business at this time a motion was duly made by Alderman Lauderdale, seconded by Alderman Bryant to adjourn.

Motion passed with a unanimous vote of "Aye".

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MAYOR CHIP JOHNSON

ATTEST:

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KATIE HARBIN, CITY CLERK