

**State of Mississippi  
Model  
Flood Damage Prevention Ordinance  
for  
Communities with no mapped SFHA**



***ACKNOWLEDGEMENT  
THANKS TO:***

***FEMA REGION IV STAFF***

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# MODEL

## FLOOD DAMAGE PREVENTION ORDINANCE for Communities with no mapped Special Flood Hazard Areas

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#### State Recommended Higher Standards:

- (1) Substantial damage/substantial improvement should be tracked for a 10-year period.
- (2) New construction and subsequent improvements should be treated as one and the same.
- (3) Communities should adopt a 'freeboard' to meet local standards, generally an elevation above the standard BFE of a minimum of 1 to 3 feet.

## **FLOOD DAMAGE PREVENTION ORDINANCE**

The following is provided to assist you in developing an ordinance that will comply with the minimum participating criteria of the National Flood Insurance Program (NFIP). It is recommended that a Community's attorney consider any necessary additions and include all required information and delegations to the model. It is not intended that this model, if adopted, will serve all of a Community's needs as related to floodplain management, land use, or zoning. Any Community may adopt standards that are more restrictive than the minimum NFIP standards. This model ordinance will denote only the minimum federal regulations governing construction in a community with no mapped Special Flood Hazard Area (SFHA) for compliance with 44 CFR 60.3 (a). Additionally, it will provide some *suggested* enhancements for consideration.

Be advised that a Community's ordinance may be subject to a determination of compliance by FEMA and MEMA staff. It is recommended that a Community coordinate with appropriate agencies to ensure the ordinance's adequacy.

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

#### **SECTION A.    STATUTORY AUTHORIZATION.**

**WHEREAS,**        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 *{governing body}* of *{county or municipality}* does hereby adopt the following floodplain management regulations.

#### **SECTION B.    FINDINGS OF FACT.**

**WHEREAS,**        There are flood prone areas within *{community}* which are subject to periodic inundation, the flooding of which adversely affects the public health, safety and general welfare.

**WHEREAS,**        The Federal Emergency Management Agency has not yet published a Flood Insurance Study, Flood Hazard Boundary Map, or Flood Insurance Rate Map for *{community}*.

**WHEREAS,**        The *{community}* wishes to establish eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the minimum floodplain management standards of Section 60.3 (a) of the Federal Insurance Administration which are intended to reduce future flood damages.

#### **SECTION C.    STATEMENT OF PURPOSE.**

**WHEREAS,**        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 height and 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. STATEMENT OF 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 flood hazard areas;
- (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 hazard area.

**ARTICLE 2. ADMINISTRATION.**

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

The *{governing body}* of *{community}* hereby appoints the *{Community official's title}* to administer and implement the provisions of this ordinance and is herein referred to as the Ordinance Administrator and/or the administrator.

**SECTION B. PERMIT REQUIREMENTS.**

A Development Permit shall be required in conformance with the provision of this ordinance prior to the commencement of any development activities within the jurisdictional limits of *{community}*. (Please see definition of “development” in Appendix 1.) No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

**SECTION C. PERMIT APPLICATION.**

Application for a Development Permit shall be made to the Ordinance Administrator on forms furnished for that purpose prior to any development activities, and may include, but not be limited to, the 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 description of the extent to which any watercourse will be altered or relocated as result of proposed development.

## SECTION D. PERMIT PROCEDURES.

The Ordinance Administrator shall:

- (1) Review all development permits to determine whether proposed building sites are within an “area of special flood hazard” and/or will be reasonably safe from flooding and shall assure that the 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) Obtain, review, and reasonably utilize any flood hazard information available from a federal, state or other source, in order to administer this ordinance. At a minimum, the following comprise the “area of special flood hazard”: identified wetlands, low-lying areas along the shores of lakes and streams, areas subject to shallow flooding during intense storms, and areas known to have flooded historically.
- (4) Obtain from the permittee the actual elevation, as determined by a state licensed surveyor, of the lowest floor including the basement of all new and substantially improved buildings/ structures, in relation to both mean sea level and highest adjacent grade. This shall occur at the time the lowest floor is established and shall be a condition for granting a Certificate of *{Occupancy, Completion, or Compliance}*.
- (5) Maintain all records pertaining to the provisions of this ordinance. Such record shall be filed by legal description in the office of the *{title of the Ordinance Administrator}* and shall be open for public inspection.

## ARTICLE 3. BUILDING STANDARDS FOR FLOOD DAMAGE REDUCTION.

In “areas of special flood hazard”, the following provision shall apply to new construction or substantial improvement of existing buildings and structures:

- (1) New construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement):
  - (a) elevated no less than *{\_\_} {feet}* above the highest adjacent grade at the building site;\*
  - (b) designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure;
  - (c) constructed with materials and utility equipment resistant to flood damage; and,
  - (d) constructed by methods and practices that minimize flood damage.
- (2) Manufactured homes shall be elevated *{\_\_} {feet}* above highest adjacent grade if no other technical base flood elevation data is determined to be available and shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable building code requirements for resisting wind forces.
- (3) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be elevated at least *{\_\_} {feet}* above highest adjacent grade if no other technical base flood elevation data is determined to be available or floodproofed to prevent water from entering or accumulating within the components during conditions of flooding.

- (4) Any addition, alteration, repair, reconstruction or improvement to a building which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction.”
- (5) Accessory Structures. Structures that represent minimal investments, are not used for human habitation, and that subordinate to and accessory to the primary structure or use on the property (eg. Storage sheds, detached garages, gazebos, and barns) may be excluded from the elevation requirements of this ordinance provided that they are properly vented and the other standards of this Section are met.
- (6) Recreational Vehicles. All recreational vehicles placed on sites must either be fully licensed and ready for highway use, or the recreational vehicle must be installed as a manufactured home. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached structures.
- (7) Historic buildings. Historic buildings, as defined, are exempt from the elevation and other standards of this section, provided written documentation is provided from the State Historic Preservation Office that the proposed repairs or rehabilitation will not preclude the building’s continued designation as a historic structure.

\* (Note: A building in an area of special flood hazard as stated above, can never be elevated less than 2 feet above the highest adjacent grade (HAG) as defined in Article 2 without a Letter of Map Correction being issued first by FEMA. The insurance rates for Post-FIRM buildings in these areas drop drastically after 5 feet of elevation. A building elevated no higher than 6 feet 8 inches above the HAG, maintains an “uninhabitable” space below the lowest floor and a space usable for parking, storage, and access is created. It also is provided with a high level of flood damage protection for a flood condition that is virtually unknown. In all cases, it is recommended that, unless it is required to produce a BFE for all development, the community attorney be consulted regarding culpability and liability for utilizing default values for unknown hazardous conditions).

**ARTICLE 4.                    STANDARDS FOR WATER AND SEWER SYSTEMS.**

In “areas of special flood hazard” the following provisions are required for the installation or reconstruction of water and sewer systems:

- (1) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- (3) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

**ARTICLE 5.                    SETBACKS FROM STREAMS AND LAKES.**

- (1) No encroachments, including fill material or structures, shall be placed within a distance of the stream bank as determined by the Floodplain Administrator. The administrator shall review and utilize any and all available data to determine the setbacks required to provide for the safe discharge of flood waters during the estimated base flood event.
- (2) Buildings shall not be permitted partially or wholly over water.

**ARTICLE 6.                    STANDARDS FOR SUBDIVISION PROPOSALS AND OTHER LARGE DEVELOPMENTS.**

Proposals for subdivisions and other large developments, including shopping centers, industrial parks and complexes, public facilities and manufactured home parks and subdivisions, shall:

- (1) Be designed and located so as to minimize future flood damages both on-site and on lands affected by the development;
- (2) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (3) Have adequate drainage provided to reduce exposure to flood hazards;
- (4) Have Base Flood Elevation (BFE) data developed in accordance with standard engineering practice, when the development is greater in size than fifty lots or five acres. Such data shall be provided to the Mississippi Emergency Management Agency (MEMA) and the Federal Emergency Management Agency (FEMA) within six months.
- (5) The Special Flood Hazard Area (SFHA) boundary and any BFE for the building site(s) on each lot shall be clearly marked on all recorded subdivision plats and approved site development plans.

**ARTICLE 7.                    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.

**ARTICLE 8.                    INTERPRETATION.**

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

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

**ARTICLE 9.                    WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes given the flood information available. This ordinance shall not create liability on the part of *{community}* or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

**ARTICLE 10.                    PENALTIES FOR VIOLATION.**

Violations 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 \$ \_\_\_\_\_ or imprisoned for not more than \_\_\_\_\_ 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 *{community}* from taking such other lawful actions as are necessary to prevent or remedy any violation.

**ARTICLE 11. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held or declared to be unconstitutional, invalid, or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and the unconstitutional, invalid or void provisions shall be deemed to have been severed herefrom, and the remainder of this Ordinance, after the exclusion of such part or parts, shall be deemed to be valid, as if such part of parts had not been included herein. If this Ordinance or any provisions hereof shall be held inapplicable to any person, group of persons, property, or kind of property, circumstances, such holdings shall not affect the application hereof to any other person, property, or circumstances.

**ARTICLE 12. DEFINITIONS.**

The definitions contained in Appendix 1 are applicable to this ordinance and are incorporated herein.

This Flood Damage Prevention Ordinance, # \_\_\_\_\_, for *{Community}*, Mississippi, was adopted on \_\_\_\_\_, and becomes effective *{immediately, or on \_\_\_\_\_}*.

*BY:* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*{Signatures of Governing Body}*

Certified by: \_\_\_\_\_

Date: \_\_\_\_\_



**APPENDIX 1:                    DEFINITIONS.**

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

**Accessory structure** (Appurtenant 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 garages, carports, storage sheds, pole barns, and hay sheds.

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

**Appeal** means a request for a review of the floodplain administrator’s interpretation of any provision of this ordinance or a request for a variance.

**Area of special flood hazard** means that in the absence of a Flood Insurance Study, Flood Hazard Boundary Map, or Flood Insurance Rate Map issued by the Federal Emergency Management Agency, the areas of special flood hazard shall include, at a minimum, the following: identified wetlands, low-lying areas along the shores of lakes and streams, areas subject to shallow flooding during intense storms, and areas know to have flooded historically. As portrayed on maps issued by FEMA, the “area of special flood hazard” is that anticipated to be inundated by the base flood.

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

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

**Building** see **Structure**.

**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 schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

**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.

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

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

**Existing Construction** any structure for which the “start of construction” commenced before *{the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard}* or *{specific date}*.

**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 *{the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which established the area of special flood hazard}* or *{specific date}*.

**Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**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.

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

**Flood Hazard Boundary Map (FHBM)** means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard 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, FHBM (where applicable) and the water surface elevation of the base flood.

**Floodplain** means any land area susceptible to flooding.

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

**Floodplain management regulations** means this ordinance 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.

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

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

**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 facility** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service 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 *{governing body}* requires that the variance is 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.

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

**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 building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

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

**Market value** means the building value, excluding the land (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.

\* ***Include only if your community is in the Regular Phase of the NFIP.***

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

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

**New Construction** means any structure for which the “start of construction” commenced after *{the effective date of the first floodplain management code, ordinance, or standard based upon specific technical base flood elevation data which establishes the area of special flood hazard.}* or *{specific date}*. The term also includes any subsequent improvements to such a structure.

**New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes 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.

**Ordinance Administrator** is the individual appointed to administer and enforce these regulations.

**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.

**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** 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 a temporary living quarters for recreational, camping, travel, or seasonal use.

**Repetitive Loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the building at the time of each such flood event.

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

construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** means all walled and roofed buildings, including gas or liquid storage tanks and manufactured homes, that are principally above ground.

**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 such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.\***

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. **This term includes structures which have incurred “repetitive loss” or “substantial damage,” regardless of the actual repair work performed. This includes any combination of repairs, reconstruction, alteration, or improvements to a building taking place during (the life of the building) or {a \_\_\_\_\_year period}\*\*, in which the cumulative cost equals or exceeds 50 percent of the market value of the building either:**

- a.) Before the improvement or repair is started; or,
- b.) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures that have incurred “substantial damage” or “repetitive loss,” regardless of the actual repair work performed. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- a.) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified prior to permit issuance by the Code Enforcement 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.

**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.

\* **Optional but required for ICC eligibility for substantially damaged buildings. (Regular Phase only)**

\*\* **Optional and recommended that it be augmented with written and adopted community policy and procedure.**