COUNTY AGENDA REQUEST

Department:	Environmental Management	Presenter(s):	Vanessa Birrell
Meeting Date:	Thursday, April 23, 2015	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's request to adopt Ordinance 2015-07 Floodplain Management, by deleting Article IV, pertaining to "Floodplain Management," from Chapter 104, in its entirety, and by replacing it with a new Article IV in Chapter 104.

Background/History/Details:

Proposed amendments to Chapter 104, Fayette County Development Regulations Article IV, Floodplain Management include changing the administrating department from Stormwater to Environmental Management and incorporating required changes made to the ordinance by both the Metropolitan North Georgia Water Planning District and the Georgian Environmental Protection Division.

Fayette County's Floodplain Management ordinance was significantly revised in 2008 and is one of the model ordinances required by the state to be adopted by Fayette County and other small, municipal, separate storm sewer systems.

Exhibit A provides a red-line version of the proposed changes. Exhibit B provides the final-form document that incorporates the proposed changes.

What action are you seeking from the Board of Commissioners?

Adoption of Ordinance 2015-07 Floodplain Management, by deleting Article IV, pertaining to "Floodplain Management," from Chapter 104, in its entirety, and by replacing it with a new Article IV in Chapter 104.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

EXHIBIT A

RED-LINE VERSION

of

ORDINANCE 2015-07

ARTICLE IV. - FLOODPLAIN MANAGEMENT

Sec. 104-83. - Introduction.

It is hereby determined that:

(1) Flood hazard areas of the county are subject to periodic inundation that may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect public health, safety and general welfare;

(2) Flood hazard areas serve important stormwater management, water quality, stream corridor and bank protection, wetland preservation and ecological purposes when permanently protected as undisturbed or minimally disturbed areas;

(3) Effective floodplain management and flood hazard protection activities can:

a. Protect human life and health;

b. Minimize damage to private property;

c. Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and

d. Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public;

(4) Article IX, section II of the constitution of the state and section 36-1-20(a) of the Official Code of Georgia Annotated (O.C.G.A. § 36-1-20(a)) delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the county does ordain this article and establishes this set of floodplain management and flood hazard reduction ~~policies~~ provisions for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage is in the public interest and will minimize threats to public health and safety, as well as to private and public property~~,~~.

Sec. 104-84. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Adjacent means those areas located within the defined horizontal distance from the future-conditions floodplain boundary that are at or lower in elevation than either three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher, unless the area is hydraulically independent (meaning absolutely no connection to the flooding source such as through pipes, sewer laterals, down drains, foundation drains, ground seepage, overland flow, gated or valved pipes, excavated and backfilled trenches, etc. with no fill or other manmade barriers creating the separation).

Appeal means a request for a review of the ~~stormwater management director's~~Environmental Management Director's interpretation of any provision of this article.

Area of future-conditions flood hazard means the land area that would be inundated by the one-percent-annual-chance flood based on future-conditions hydrology (100-year future-conditions flood.)

~~*Area of shallow flooding* means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.~~

Area of special flood hazard means the land area subject to a one percent or greater chance of flooding in any given year. This includes all floodplain and flood prone areas at or below the base flood elevation (~~including~~ designated as Zones A, A1-30, A-99, AE, AO, AH, and AR on the ~~FHBM or the~~community's flood insurance rate map (FIRM)~~), all floodplain and floodprone areas at or below the future-conditions flood elevation, and all other floodprone areas as referenced in section 104-85(e)~~. For drainage areas less than 100 acres, the area of special flood hazard shall be delineated at the discretion of the ~~stormwater management director~~Environmental Management Director.

Accessory structure or facility means a structure that is on the same parcel of property as the principal structure and the use of which is incidental to the use of the primary structure.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood.

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

Basement means ~~a portion~~any area of a building having its floor subgrade (~~i.e.,~~ below ground level) on ~~more than one side~~all sides.

Building means ~~any~~ the same as structure~~ built for support, shelter, or enclosure for any occupancy or storage~~.

Development means any manmade change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

Elevated building means a ~~nonbasement~~ building without a basement ~~built to have the~~that has its lowest floor ~~of the lowest enclosed area elevated~~raised above the ground level by ~~means of fill, solid~~ foundation ~~perimeter~~ walls, posts, pilings, columns, piers, or shear walls~~ adequately anchored so as not to impair the structural integrity of the building during a base flood event~~.

Environmental Management Department means the department so designated by the county board of commissioners to interpret and implement this article.

Environmental Management Director means the person so appointed by the county board of commissioners and his or her employees designated to enforce and interpret this article.

Existing construction means any structure where the "start-of-construction" commenced before June 23, 1983 (the effective date of the county's ~~original~~ initial floodplain management regulation).

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 street, and either final site grading or the pouring of concrete pads) was completed before June 23, 1983 (the effective date of the county's ~~original~~ initial floodplain management regulation).

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

FEMA means the Federal Emergency Management Agency.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.

~~*Flood hazard boundary map* means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as zone A.~~

Flood insurance rate map (FIRM) means an official map of a community, issued by ~~the Federal Insurance Administration~~FEMA, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report by ~~the Federal Insurance Administration~~FEMA ~~evaluating~~ that provides an examination, evaluation and determination of flood hazards, ~~and containing~~corresponding flood profiles and water surface elevations of the base flood.

Floodplain or flood prone area means any land area susceptible to flooding during the base flood.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures ~~which~~ that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway or *regulatory floodway* means the channel of a stream, river or other watercourse and the adjacent areas ~~of the floodplain which is necessary~~that must be reserved in order to ~~contain and~~ discharge the base flood ~~flow~~ without cumulatively increasing the ~~base flood~~water surface elevation more than ~~one foot~~a designated height.

~~*Functionally*~~ *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. It does not include long-term storage or related manufacturing facilities.

Future-conditions flood means a flood having a one percent chance of being equaled or exceeded in any given year based on future-conditions hydrology, also known as the 100-year future-conditions flood.

Future-conditions flood elevation means ~~a flood standard equal to or higher than the base flood elevation. The future-conditions flood elevation is defined as~~ the highest water surface elevation anticipated at any given ~~point~~ location during the future-conditions flood.

Future-conditions floodplain means any land area susceptible to flooding by the future-conditions flood.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning ~~map~~maps, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge ~~and~~ or culvert construction, fill, and excavation.

Highest-adjacent grade means the highest natural elevation of the ground surface~~,~~ prior to construction~~, adjacent~~next to the proposed ~~foundation~~ walls of a ~~building~~structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places ~~and determined as eligible~~ by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places ~~and determined as eligible~~ by communities with historic preservation programs that have been certified either by:

a. An approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

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

Manufactured home means a ~~building~~structure, transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when ~~connected~~ attached to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term does not include a recreational vehicle.

Mean sea level means the ~~average height of the sea for all stages of the tide~~datum to which base flood elevations shown on a community's FIRM are referenced. ~~It is used as a reference for establishing various elevations within the floodplain.~~ For purposes of this article the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 and/or the North American Vertical Datum (NAVD) of 1988.

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

New construction means any structure (see definition) for which the "start of construction" commenced on or after June 23, 1983, and includes any subsequent improvements to the structure.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes 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 June 23, 1983.

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

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

Permit means ~~the~~ a building permit, land disturbance permit, certificate of zoning compliance, subdivision plat or parcel reconfiguration issued and/or approved by the county to the applicant which is required prior to undertaking any development activity.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by light-duty truck; and,

(4) Designed primarily for use us temporary living quarters for recreational camping, travel, or seasonal use and not for use as a permanent dwelling.

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a 10-year period where the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25 percent of the market value of the structure before the damage occurred.

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

Start of construction means the date the permit was issued, provided the actual start of construction, repair, reconstruction, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure 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, ~~and includes,~~or the placement of a manufactured home on a foundation. A minimum of one inspection approval must be obtained as evidence that work, was commenced or that work has continued. Permanent construction does not include initial land preparation such as clearing, grading and filling, ~~nor does it include~~ the installation of streets and/or walkways~~; nor does it include~~, excavation for a basement, footings, piers or foundations ~~or the~~, erection of temporary forms~~; nor does it include the~~, or installation on the property of ~~buildings appurtenant to the permitted structure~~accessory structures, such as garages or sheds not occupied as dwelling units or part of the main structure. ~~(Note—Accessory structures are not exempt from any ordinance requirements.)~~ For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~*Stormwater management department* means the county stormwater management department so designated by the county board of commissioners to interpret and implement this article.~~

~~*Stormwater management director* means the person so appointed by the county board of commissioners and his employees designated to enforce and interpret this article.~~

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

Subdivision means ~~the division of a tract or parcel of land resulting in one or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.~~a division of a tract of land into a minimum of two (2) or more lots.

Substantial damage means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged-condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any ~~combination of permitted repaint,~~ reconstruction, ~~alteration,~~rehabilitation, addition or ~~improvements~~ other improvement to a ~~building~~structure, taking place during a ten-year period, ~~in which~~where the cumulative cost equals or exceeds 50 percent of the market value or the structure prior to the improvement. The market value of the ~~building~~ structure means:

(1) The appraised value of the structure as determined by the county tax assessor prior to the start of the initial repair or improvement; or

(2) In the case of damage, the value of the structure prior to the damage occurring~~, this term includes structures which have incurred "substantial damage" regardless of the actual amount of repair work performed.~~

This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. ~~For the purposes of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor system, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.~~ The term does not however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions, ~~which~~ that have been pre-identified by the code enforcement official, and are not solely triggered by an improvement or repair project.

Substantially improved existing manufactured ~~horn part~~home park or subdivision means 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 means a grant of relief from the requirements of this article~~ that permits construction in a manner otherwise prohibited by this article~~.

Violation means the failure of a structure or other development to be fully compliant with the ~~county floodplain management regulations~~requirements of this article. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this article is presumed to be in violation until such time as ~~that~~ documentation is provided.

Sec. 104-85. - General provisions.

(a) *Purpose and intent.* The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, stream bank and stream corridor protection, wetlands preservation and ecological and environmental protection. This article seeks to meet this purpose through the following ~~objectives~~provisions:

(1) Require that uses vulnerable in floods, including facilities that serve such uses, are protected against flood damage at the time of initial construction;

(2) Restrict or prohibit uses dangerous to health, safety and property due to flooding or erosion hazards, or that increase flood heights, velocities, or erosion;

(3) Control filling, grading, dredging and other development that may increase flood damage or erosion;

(4) Prevent or regulate the construction of flood barriers that unnaturally divert floodwaters or ~~which~~ may increase flood hazards to other lands;

(5) Limit the alteration of natural floodplains, stream channels, and natural protective barriers that ~~accommodation of~~accommodate floodwaters; and

(6) Protect the functions of stormwater management; water quality, stream banks and corridors, wetlands, ~~and~~ ecological functions of natural floodplain areas, and dams or impoundments.

(b) *Applicability.* This article shall be applicable to all ~~areas of~~ areas of special flood hazard ~~within the county~~ and all areas "adjacent" to an area of special flood hazard, within the county, as defined herein. A property shall be subject to the terms and conditions of this article whenever a ~~building~~ permit~~, land disturbance permit, certificate of zoning compliance, subdivision,~~ or ~~reconfiguration of a parcel~~approval is required ~~and/or approved~~ by the county or when other development is proposed.

(c) *Administration of article.* The ~~stormwater management director~~Environmental Management Director is hereby appointed to administer and implement the provisions of this article.

(d) *Compatibility with other regulations.* This article is not intended to modify or repeal any other ordinance, rule, regulation, statute, casement, covenant, deed restriction or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or order provision of law and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or ~~impose~~ imposes higher protective standards for human health or the environment shall control.

(e) *Basis for ~~area~~ establishing areas of special flood hazard~~;~~, areas of future-conditions flood hazard and associated floodplain characteristics - flood area maps and studies.* For the purposes of ~~this article~~defining and determining areas of special flood hazard, areas of future-conditions flood hazard, base flood elevations, floodplains, floodways, future-conditions flood elevations, future-conditions floodplain, potential flood hazard or risk categories as shown on FIRM maps, and other terms used in this article, the following documents and sources may be used for such purposes and are adopted by reference:

(1) The September 26, 2008, flood insurance study (FIS) on file with the ~~stormwater management department~~Environmental Management Department, with accompanying maps and other supporting data and any revision thereto~~ is hereby adopted by reference~~.

(2) The Fayette County 2013 Limited Detailed Future Conditions Flood Study on file with the Environmental Management Department, with accompanying maps and other supporting data.

~~(2)~~(3) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the base or one-percent (100-year) floodplain and flood prone areas including:

a. Any flood or flood-related study conducted by the United Suites Army Corps of Engineers, the United States Geological Survey or any other local, state or federal agency applicable to the county; ~~or~~ and

b. Any base flood study ~~authored~~ conducted by a ~~registered~~ licensed professional engineer ~~in the state~~that which has been prepared ~~by~~ utilizing FEMA-approved methodology and approved by the ~~stormwater management department~~Environmental Management Department.

(4) Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and flood prone areas include:

~~1.~~a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency applicable to the county; ~~or~~ and

~~2.~~b. Any future-conditions flood study that is conducted by a licensed professional engineer in the state that has been prepared utilitizing FEMA-approved methodology and approved by the Environmental Management Department. Fayette County will only accept independent studies indicating a 100 year elevation different from the Fayette County 2013 Limited Detailed Future Conditions Flood Study if a HEC-RAS qualified independent engineer can demonstrate to Fayette County that results are accurate. This demonstration will include incorporating agreed upon independent parameters into the Fayette County 2013 Limited Detailed Future Conditions Flood Study HEC-RAS model in such a manner that there are no hydraulic jumps. The altered HEC-RAS model must be submitted to Environmental Management Department in the electronic HEC-RAS file format.:

~~(i) Authored by a registered professional engineer in the state;~~

~~(ii) Prepared using FEMA approved methodology; and~~

~~(iii) Approved by the stormwater management department.~~

~~(3)~~(5) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the county ~~stormwater management department~~Environmental Management Department.

(f) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, flood heights may be increased by manmade or natural causes. This article 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 article shall not create liability on the part of the county or ~~by~~ any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Sec. 104-86. - Standards for development.

(a) ~~*Definition areas of special flood hazard*~~*Determination of floodplain boundaries*.

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

(2) For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations shall be provided by ~~stormwater management department~~the Environmental Management Department. If future-conditions elevation data is not available from the ~~stormwater management department~~Environmental Management Department, then it shall he determined by a ~~registered~~ licensed professional engineer using a method approved by FEMA and the ~~stormwater management department~~Environmental Management Department.

(3) For streams or other drainage basins with drainage areas less than 100 acres, areas of special flood hazard shall be determined by a ~~registered~~ licensed professional engineer using a method approved by the ~~stormwater management department~~Environmental Management Department, as required by the ~~stormwater management director~~Environmental Management Director.

(4) The area of special flood hazard shall be delineated for all manmade flood hazards (e.g., yard drains, stormwater management structures, inlets to storm sewer systems, dams or impoundments, etc.) by a ~~registered~~ licensed professional engineer.

(b) ~~*Definition*~~ *Determination of floodway boundaries.* The width of a floodway shall be determined from the FIS, the Fayette County 2013 Future-conditions Flood Study or ~~a~~ other FEMA-approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway shall be provided by the ~~stormwater management department~~Environmental Management Department. If floodway data is not available from the ~~stormwater management department~~Environmental Management Department, then it shall be determined by a ~~registered~~ licensed professional engineer using a method approved by FEMA and the ~~stormwater management department~~Environmental Management Department.

(c) *General standards.*

(1) No development shall be allowed within ~~the~~ an area of special flood hazard or an area of future-conditions ~~floodplain~~ flood hazard that could result in any of the following:

a. Raising the base flood elevation or future-conditions flood elevation equal to or more than one 0.01 foot;

b. Reducing the base-flood or future-conditions flood storage capacity;

c. Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or

d. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.

(2) Any development within ~~the~~ an area of special flood hazard or an area of future-conditions ~~floodplain~~ flood hazard allowed under subsection (c)(1) of this section shall also meet the following conditions:

a. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the ~~top of the~~ natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;

b. Cut areas shall be stabilized and graded to a slope of no less than two percent;

c. Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;

d. Verification of no-rise conditions, [0.01 foot or less], flood storage volumes, and flow characteristics shall he provided via a step-backwater analysis meeting the requirements of section 104-88(e);

e. Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from floodwaters; and

f. Any significant physical changes to the base flood floodplain shall he submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable The CLOMR submittal shall be subject to approval by the ~~stormwater management department~~Environmental Management Department using the community ~~consent~~ concurrence forms before forwarding the submittal package to FEMA for final approval The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. ~~within~~ Within six months of the completion of ~~construction~~development, the applicant shall submit as-built surveys and plans for a final letter of map revision (LOMR).

Sec. 104-87. - Provisions for flood damage reduction.

In all areas of special flood hazard and all areas of future-conditions flood hazard, the following provisions apply:

(a) *General standards.* ~~In all areas of special flood hazard the following provisions apply:~~

(1) New construction ~~of principal buildings~~and substantial improvement of structures (residential or nonresidential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all requirements of subsection (g) of this section and sections 104-86(a) and 104-88(e) have been met;

(2) New construction ~~or~~ and substantial improvements ~~of existing structures~~ shall be anchored to prevent flotation, collapse ~~or~~ and lateral movement of the structure;

(3) New construction ~~or~~ and substantial improvements ~~of existing structures~~ shall he constructed with materials and utility equipment resistant to flood damage;

(4) New construction ~~or~~ and substantial improvements ~~of existing structures~~ shall be constructed by methods and practices that minimize flood damage;

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

a. Designs for complying with this requirement must either be certified by a licensed professional engineer or architect ~~or~~ to meet or exceed the following minimum criteria:

1. 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;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

b. So as not to violate the "lowest floor" criteria of this article, the unfinished and flood resistant enclosure shall solely be used for parking of vehicles, limited storage of

maintenance equipment used in connection with the premises, or entry to the elevated area; and

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

(6) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;

(7) Manufactured homes shall be anchored to prevent flotation, collapse, ~~or~~ 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;

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

(9) 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 floodwaters;

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

(11) Any alteration, repair, reconstruction or improvement to a structure ~~which~~ that is not compliant with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced; ~~and~~

(12) If the proposed development is located in multiple flood zones or multiple base flood elevations cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence~~.~~;

(13) All proposed development shall include adequate drainage and stormwater management facilities per the requirements of Article XIV, Fayette County Development Regulation to reduce exposure to flood hazards;

(14) Public utilities, such as gas and electric systems, shall be located and constructed to minimize or eliminate flood damage or public safety hazards; and

(15) When only a portion of a proposed structure is located within a flood zone or the future-conditions floodplain, the entire structure shall meet the requirements of this article.

(b) *Building standards for structures and buildings within the future-conditions floodplain.* The following provisions, in addition to those in subsection (a) of this section, shall apply:

(1) Residential and nonresidential building structures.

a. New construction of ~~principal buildings, including manufactured homes~~any structure shall not be allowed within the limits of the future-conditions floodplain unless all requirements of subsection (g) of this section and sections 104-86(c) and 104-88(e) have been met. If all of the requirements of subsection (g) of this section, and sections 104-86(c) and 104-88(e) have been met, all new construction shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the ~~hydrologic~~ hydrostatic flood forces on exterior walls ~~and to facilitate the unimpeded movements of floodwaters~~ shall be provided in accordance with standards of subsection (a)(5) of this section. A ~~registered~~ licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the ~~stormwater management department~~Environmental Management Department.

b. Substantial improvement of any ~~principal~~ structure ~~or manufactured home~~ shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to automatically equalize the ~~hydrologic~~ hydrostatic flood forces on exterior walls ~~and to facilitate the unimpeded movements of floodwaters~~ shall be provided in accordance with standards of subsection (a)(5) of this section. A ~~registered~~ licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the ~~stormwater management department~~Environmental Management Department.

(2) *Accessory structures and facilities.* Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, ~~parking lots,~~ recreational facilities and other similar nonhabitable structures and facilities) which meet the requirements of Sections 104-86(c), 104-88(e) and 104-87(g) and are permitted to be located within the limits of the future-conditions floodplain shall be constructed of flood-resistant materials and designed to ~~pass all floodwater~~provide adequate flood openings in accordance with subsection (a)(5)(a) of this section and be anchored to prevent flotation, collapse ~~or~~ and lateral movement of the structure.

(3) *Standards for recreational vehicles.* All recreational vehicles placed on sites must either:

a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

b. ~~The recreational vehicle must meet~~Meet all the requirements in subsection (b)(1) of this section ~~for residential buildings, substantial improvements~~, including the anchoring and elevation requirements.

(4) *Standards for manufactured homes.*

a. New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of subsection (g) of this section and sections 104-86(e) and 104-88(e) have been met. If all the requirements of these sections have been met, all new construction and substantial improvement shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with Section 104-87(5)a.

b. Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:

1. The lowest floor of the manufactured home is elevated no lower than three feet above the level of the base flood elevation, or one foot above the future-conditions flood elevation, whichever is higher; or

2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less than 36 inches in height above grade.

c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with standards of subsection (a)(7) of this section.

(c) *Building standards for structures and buildings authorized adjacent to the future-conditions floodplain.* For purposes of this article, the term "adjacent to the future-conditions floodplain" includes: all buildings and structures on a property that contains (partially or entirely) an area of

special flood hazard; or all buildings and structures on a property that shares a common property line with another parcel that contains an area of special flood hazard. Residential and nonresidential buildings and structures adjacent to the future-conditions floodplain shall meet the following:

(1) For new ~~construction or~~and substantial improvement ~~of~~ construction, the elevation of the lowest floor, including basement and access to the building, shall be at least three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Compliance with the above requirement shall be ~~determined by a certified~~submittal of an as-built elevation certificate ~~or floodproofing certificate for nonresidential construction including the lowest floor elevation or floodproofing level~~ and submitted immediately upon completion of floodproofing or survey work. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. ~~When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same.~~

a. Buildings and structures authorized adjacent to the future-conditions floodplain may be exempt from the requirements of this section if the following conditions apply:

1. The building or structure is not within the same sub-basin as the area of special flood hazard and the drainage divide between the area of special flood hazard and the building or structure of concern is at least three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher; or

2. The area of special flood hazard is a manmade hazard associated with a storm sewer system (e.g., a yard drain) and the grading within the sub-basin provides unconstrained, positive drainage away from the building or structure at a minimum slope of two percent.

b. The ~~stormwater management department~~Environmental Management Department shall determine if either of these conditions is applicable to a ~~building or~~ structure. Alternatively, the owner/developer may provide a letter justifying applicability of the exemptions. The letter shall be prepared by a ~~registered~~ licensed professional engineer and shall be reviewed and approved by the ~~stormwater management department~~Environmental Management Department in order for the exemption to be valid. In either case, the owner/applicant shall be solely responsible for providing any as-built elevation data necessary to determine applicability of the exemptions. The elevation data shall be prepared by or under the direct supervision of a ~~registered~~ licensed land surveyor or professional engineer and certified by the same.

(d) *Building standards for residential single-lot developments on streams without an established base flood elevations ~~and/or~~and floodway (A-zones).* For a residential single-lot development not part of a subdivision that ~~has areas~~contains an area of special flood hazard, where streams exist but no base flood data have been provided (A-zones), the ~~stormwater management department~~ Environmental Management Department shall review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a federal, state, local or other source, in order to administer the provisions and standards of this article. If data are not available from any of these sources, the following provisions shall apply:

(1) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or 50 feet from the top of the bank of the stream, whichever is greater.

(2) In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements ~~of existing structures~~ shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the ground immediately around the building and positive drainage must be provided at a minimum two percent slope away from the building. ~~Openings~~ Flood openings sufficient to facilitate ~~the~~

~~unimpeded movements~~automatic equalization of ~~floodwaters~~ hydrostatic flood forces shall be provided for flood prone enclosures in accordance with subsection (a)(5) of this section.

~~(e) *Building standards for areas of shallow flooding (AO-zones).* Areas of special flood hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. In these areas the following provisions apply:~~

~~(1) All substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to no lower than one foot above the flood depth number in feet specified on the flood insurance rate map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of subsection (a)(5) of this section.~~

~~(2) Substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to the specified FIRM flood level plus one foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice.~~

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

(f) *Standards for subdivisions.*

(1) All subdivision proposals shall identify the areas of special flood hazards and provide base flood elevation data and future-conditions flood elevation data;

(2) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future-conditions floodplain for residential structures will not be required;

(3) All subdivision plans will provide the elevations of proposed structures in accordance with section 104-88(b);

~~(4) All subdivision proposals shall be consistent with the need to minimize flood damage;~~

~~(5) All subdivision proposals shall have public utilities and facilities such as water, sanitary sewer, gas, and electrical systems located and constructed to minimize or eliminate infiltration of floodwaters, and discharges from the systems into floodwaters; and~~

~~(6) All subdivision proposals shall include adequate drainage and stormwater management facilities per the requirements of article XIV of this chapter, to reduce potential exposure to flood hazards.~~

(g) *Floodway encroachments.* Located within areas of special flood hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to the velocity of floodwaters, and debris or erosion potential. ~~In addition, floodways~~Floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

(1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in subsection (g)(2) of this section;

(2) Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering ~~practice~~ practices that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway

widths during the base flood discharge. A ~~registered~~ licensed professional engineer must provide supporting technical data and certification thereof; and

(3) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the ~~stormwater management department~~Environmental Management Department until an affirmative conditional letter of map revision (CLOMR) is issued by FEMA ~~and~~ or a no-rise certification is approved by the ~~stormwater management department~~Environmental Management Department.

(h) *Maintenance requirements.* The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on ~~his~~ the property so that the flood-carrying or flood storage capacity is ~~not diminished~~maintained. The ~~stormwater management department~~Environmental Management Department may direct the property owner (at no cost to the county) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the ~~stormwater management department~~Environmental Management Department.

Sec. 104-88. - Permit procedures and requirements.

(a) *Permit application requirements.* No owner or developer shall be approved for or perform any development activities on a site where an area of special flood hazard or area of future-conditions flood hazard is located without first meeting the applicable requirements, restrictions, and criteria of this chapter prior to commencing the proposed activity. Unless specifically excluded by this ~~chapter~~article, any landowner or developer desiring a permit for a development activity shall submit to the ~~stormwater management department~~Environmental Management Department documentation showing compliance with this ~~chapter~~article.

(b) *Floodplain management plan requirements.* A floodplain management plan shall be required for all projects with development activities within, either partially or completely, an area of special flood hazard or an area of future-conditions flood hazard. The plan shall include the following items:

(1) Site plan drawn to scale, which includes but is not limited to:

a. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;

b. For all proposed structures, spot ground elevations at building ~~comers~~ corners and 20-foot or smaller intervals along the foundation footprint, or one-foot contour elevations throughout the building site;

c. Proposed locations of water supply, sanitary sewer, and utilities;

d. Proposed locations of drainage and stormwater management facilities;

e. Proposed grading plan;

f. Base flood elevations and future-conditions flood elevations;

g. Boundaries of the base flood floodplain and future-conditions floodplain;

h. If applicable, the location of the floodway; and

i. Certification of the above by a ~~registered~~ licensed professional engineer or surveyor.

(2) Building and foundation design detail, including but not limited to:

a. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;

b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

c. Certification that any proposed nonresidential floodproofed structure meets the criteria in section 104-87(b)(2); and

d. For enclosures below the base flood elevation, location and total net area of ~~foundation~~ flood openings ~~are~~ as required in section 104-87(a)5~~; and~~.

~~e. Design plans certified by a registered professional engineer or architect for all proposed structures.~~

(3) Description~~, based on engineering calculations or modeling,~~ of the extent to which any watercourse will be altered or relocated as a result of the proposed development;

(4) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre- and post-development conditions base flood elevations, future-conditions flood elevations, flood protection elevations~~. Special~~, special flood hazard areas and regulatory ~~floodway widths~~floodways, flood profiles and all other computations and other information similar to that presented in the FIS;

(5) Copies of all applicable state and federal permits necessary for proposed development, including but not limited to permits required by Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334; and,

(6) All appropriate certifications required under this chapter.

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

(c) *Construction stage submittals.* For all new construction and substantial improvements on sites with a floodplain management plan, the permit holder shall provide to the ~~stormwater management department~~Environmental Management Department a certified as-built elevation certificate or floodproofing certificate for nonresidential construction ~~including~~ that includes the lowest floor elevation or floodproofing level immediately after the lowest floor or floodproofing is ~~completed~~constructed. A final elevation certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a ~~registered~~ licensed land surveyor or professional engineer and certified by the same. ~~When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same.~~ Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The ~~stormwater management department~~Environmental Management Department shall review the above referenced certification data submitted. ~~deficiencies~~ Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work ~~being allowed to proceed~~proceeding. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

(d) *Duties and responsibilities of the administrator.* Duties of the ~~stormwater management department~~Environmental Management Department shall include, but ~~shall not be~~are not limited to:

(1) Review of all development applications and permits to assure that the requirements of this article have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;

(2) ~~Require that copies of~~Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by federal ~~or~~ and/or state law, including but not limited to, section 404 of the Federal Water Pollution Control Act Amendments of 1972, No. 33 USC 1334~~, be provided and maintained on file~~;

(3) When base flood elevation data or floodway data have not been provided, then the ~~stormwater management department~~Environmental Management Department shall require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from

a federal, state or other ~~sources~~ source in order to meet the provisions of sections 104-86 and 104-87;

(4) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new ~~or~~ and substantially improved structures;

(5) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been floodproofed;

(6) When floodproofing is utilized for a nonresidential structure, the ~~owner/developer shall provide to the stormwater management department~~Environmental Management Department shall review the design and operation and maintenance plans and obtain certification ~~of design criteria~~ from a ~~registered~~ licensed professional engineer or architect;

(7) Notify affected adjacent communities and the ~~state department of natural resources~~Georgia Department of Natural Resources (GA DNR) prior to any alteration or relocation of a watercourse and submit evidence of such notification to ~~the federal emergency management agency (FEMA)~~FEMA;

(8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the ~~stormwater management director~~Environmental Management Director shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps; ~~and~~

(9) All records pertaining to the provisions of this chapter shall be maintained by the county and shall be open for public inspection~~.~~;

(10) Coordinate all FIRM revisions with the GA DNR and FEMA; and

(11) Review variance applications and make recommendations to the Fayette County Planning Commission.

(e) *Engineering study requirements for floodplain encroachments.* An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of section 104-87(d) apply. This study shall be prepared by a currently ~~registered~~ licensed professional engineer in the state and made a part of the application for a permit. This information shall be submitted to and approved by the ~~stormwater management department~~Environmental Management Department prior to the approval of any permit ~~which would authorize~~authorizing the disturbance of land located within the future-conditions floodplain. Such study shall include:

(1) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;

(2) Step-backwater analysis, using a FEMA-approved methodology approved by the stormwater management department. Cross sections and flow information shall be obtained whenever available and supplemented by the applicant or by the stormwater management department. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles, and future-conditions flood profiles;

(3) Floodplain storage calculations based on cross sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development; and

(4) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

Sec. 104-89. - Variance procedures.

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development activity or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this chapter. ~~A request for a variance may be submitted by an applicant who has been denied a permit by the stormwater management department or by an owner or developer who has not previously applied for a permit for the reasons stated hereinabove.~~

(1) Requests for variances from the requirements of this chapter shall be submitted to the ~~stormwater management department~~Environmental Management Department. All such requests shall be heard and decided in accordance with procedures to be published in writing by the ~~stormwater management department~~Environmental Management Department. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(2) Any person adversely affected by any decision of the ~~stormwater management department~~Environmental Management Department shall have the right to appeal such decision to the ~~county planning commission~~Fayette County Planning Commission as established by the county in accordance with procedures to be published in writing by the county planning commission. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(3) Any person aggrieved by the decision of the ~~county planning commission~~Fayette County Planning Commission may appeal such decision to the county state court, as provided in section 5-4-1 of the Official Code of Georgia Annotated (O.C.G.A. § 5-4-1).

(4) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.

(5) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

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

(7) In reviewing such requests, the ~~stormwater management department~~Environmental Management Department and the ~~county planning commission~~Fayette County Planning Commission shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this chapter.

(8) Conditions for variances.

a. A variance shall be issued only when all of the following conditions are met;

1. A finding of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.

b. The provisions of this chapter are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief~~; and, in the instance of 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.

c. Any person to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance resulting from the lowest floor elevation being placed below the base flood elevation will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.and such costs may be as high as $25 or $100 of insurance coverage provided.

d. The stormwater management departmentEnvironmental Management Department shall maintain the records of all appeal variance actions and report any variancesthem to the federal emergency management agencyGA DNR upon request.

(9) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as stormwater management departmentEnvironmental Management Department and the county planning commissionFayette County Planning Commission shall deem necessary to thefor consideration of the request.

(10) Upon consideration of the factors listed in subsection (8) of this section and the purposes of this chapter, stormwater management departmentthe Environmental Management Department and the county planning commissionFayette County Planning Commission may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this chapter.

(11) Variances shall not be issued "after the fact."

Sec. 104-90. - Violations, enforcement and notice.

(a) Any action or inaction which violates the provisions of this chapter or the requirements of an approved stormwater management plan or permit may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief. The imposition of any of the penalties described in section 104-91 shall not prevent such equitable relief.

(b) Notice of violation. If the stormwater management departmentEnvironmental Management Department determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this chapter, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this chapter without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

(1) The name and address of the owner or the applicant or the responsible person;

(2) The address or other description of the site upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this article and the date for the completion of such remedial action; and

(5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and.

(6) A statement that the determination of violation may be appealed to the stormwater management department by filing a written notice of appeal within 30 days after the notice of violation

~~(except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).~~

Sec. 104-91. - Penalties.

(a) In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of actions or penalties set forth in subsection (c) of this section may be taken or assessed against the person to whom the notice of violation was directed.

(b) Before taking any of the following actions or imposing any of the following penalties, the stormwater management department shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation.

(c) In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the stormwater management department may take any one or more of the following actions or impose any one or more of the following penalties:

(1) *Stop work order.* The ~~stormwater management department~~Environmental Management Department may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.

(2) *Withhold certificate of occupancy.* The ~~stormwater management department~~Environmental Management Department may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(3) *Suspension, revocation or modification of permit.* The ~~stormwater management department~~Environmental Management Department may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the stormwater management department may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(4) *Civil penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the ~~stormwater management department~~Environmental Management Department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the ~~stormwater management department~~ Environmental Management Department has taken one or more of the actions described in subsection (c)(1)—(3) of this section, the stormwater management department may impose a penalty not to exceed $1,000.00 (depending on the severity of the violation) for each day the violation is not remediated after receipt of the notice of violation.

(5) *Criminal penalties.* For intentional violations of this chapter, the ~~stormwater management department~~Environmental Management Department may issue a citation to the applicant or other responsible person, requiring such person to appear in the county state court to answer

charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed $1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Secs. 104-92—104-110. - Reserved.

EXHIBIT A

FINAL FORM VERSION

of

ORDINANCE 2015-07

STATE OF GEORGIA

FAYETTE COUNTY

ORDINANCE

NO. 2015-07

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR FAYETTE COUNTY, GEORGIA; TO REVISE PROVISIONS PERTAINING TO FLOODPLAIN MANAGEMENT; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROMOTE THE PUBLIC HEALTH, SAFETY AND WELFARE, AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ENACTED PURSUANT TO THE AUTHORITY OF THE SAME THAT THE CODE OF ORDINANCES OF FAYETTE COUNTY AS IT PERTAINS TO FLOODPLAIN MANAGEMENT (ARTICLE IV OF CHAPTER 104), BE AMENDED AS FOLLOWS:

Section 1. By deleting Article IV, pertaining to "Floodplain Management", from Chapter 104, in its entirety, and by replacing it with a new Article IV in Chapter 104, to be numbered and read as follows:

ARTICLE IV. FLOODPLAIN MANAGEMENT.

Sec. 104-83. Introduction.

It is hereby determined that:

(1) Flood hazard areas of the county are subject to periodic inundation that

may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect public health, safety and general welfare;

(2) Flood hazard areas serve important stormwater management, water quality, stream corridor and bank protection, wetland preservation and ecological purposes when permanently protected as undisturbed or minimally disturbed areas;

(3) Effective floodplain management and flood hazard protection activities can:

a. Protect human life and health;

b. Minimize damage to private property;

c. Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and

d. Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.

(4) Article IX, section II of the constitution of the state and section 36-1-20(a) of the Official Code of Georgia Annotated (O.C.G.A. § 36-1-20(a)) delegated the responsibility to local governmental units to adopt

regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the county does ordain this article and establishes this set of floodplain management and flood hazard reduction provisions for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the prevention of flood damage is in the public interest and will minimize threats to public health and safety, as well as to private and public property.

Sec. 104-84. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure or facility means a structure that is on the same parcel of property as the principal structure and the use of which is incidental to the use of the primary structure.

Addition means any walled and roofed expansion to the perimeter or height of a building.

Adjacent means those areas located within the defined horizontal distance from the future-conditions floodplain boundary that are at or lower in elevation than either three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher, unless the area is hydraulically independent (meaning

absolutely no connection to the flooding source such as through pipes, sewer laterals, down drains, foundation drains, ground seepage, overland flow, gated or valved pipes, excavated and backfilled trenches, etc. with no fill or other manmade barriers creating the separation).

Appeal means a request for a review of the Environmental Management Director's interpretation of any provision of this article.

Area of future-conditions flood hazard means the land area that would be inundated by the one-percent-annual-chance flood based on future-conditions hydrology (100-year future-conditions flood).

Area of special flood hazard means the land area subject to a one percent or greater chance of flooding in any given year. This includes all floodplain and flood prone areas at or below the base flood elevation (designated as Zones A, A1-30, A-99, AE, AO, AH, and AR on the community's flood insurance rate map (FIRM)). For drainage areas less than 100 acres, the area of special flood hazard shall be delineated at the discretion of the Environmental Management Director.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood.

Base flood elevation means the highest water surface elevation anticipated at any given location during the base flood.

Basement means any area of a building having its floor subgrade (below ground level) on all sides.

Building means the same as structure.

Development means any manmade change to improved or unimproved real estate including but not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

Elevated building means a building without a basement that has its lowest floor raised above the ground level by foundation walls, posts, pilings, columns, piers, or shear walls.

Environmental Management Department means the department so designated by the county board of commissioners to interpret and implement this article.

Environmental Management Director means the person so appointed by the county board of commissioners and his or her employees designated to enforce and interpret this article.

Existing construction means any structure where the "start-of-construction" commenced before June 23, 1983 (the effective date of the county's initial floodplain management regulation).

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 street, and either final site grading or the pouring of concrete pads) was completed before June 23, 1983 (the effective date of the county's initial floodplain management regulation).

Expansion to an existing manufactured home park or subdivision means the

preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

FEMA means the Federal Emergency Management Agency.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM) means an official map of a community, issued by FEMA, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report by FEMA that provides an examination, evaluation and determination of flood hazards, corresponding flood profiles and water surface elevations of the base flood.

Floodplain or flood prone area means any land area susceptible to flooding during the base flood.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

designated height.

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. It does not include long-term storage or related manufacturing facilities.

Future-conditions flood means a flood having a one percent chance of being equaled or exceeded in any given year based on future-conditions hydrology, also known as the 100-year future-conditions flood.

Future-conditions flood elevation means the highest water surface elevation anticipated at any given location during the future-conditions flood.

Future-conditions floodplain means any land area susceptible to flooding by the future-conditions flood.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning maps, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications within a stream or other waterway, such as bridge or culvert construction, fill, and excavation.

Highest-adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places by communities with historic preservation programs that have been certified either by:

a. An approved state program as determined by the Secretary of the Interior; or

b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of

other provisions of this article.

Manufactured home means a structure, transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when attached to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. The term does not include a recreational vehicle.

Mean sea level means the datum to which base flood elevations shown on a community's FIRM are referenced. For purposes of this article the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 and/or the North American Vertical Datum (NAVD) of 1988.

New construction means any structure (see definition) for which the "start of construction" commenced on or after June 23, 1983, and includes any subsequent improvements to the structure.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes 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 June 23, 1983.

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

person, firm or corporation in control of the site.

Permit means a building permit, land disturbance permit, certificate of zoning compliance, subdivision plat or parcel reconfiguration issued and/or approved by the county to the applicant which is required prior to undertaking any development activity.

Recreational vehicle means a vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by light-duty truck; and

(4) Designed primarily for use us temporary living quarters for recreational camping, travel, or seasonal use and not for use as a permanent dwelling.

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a 10-year period where the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25 percent of the market value of the structure before the damage occurred.

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

Start of construction means the date the permit was issued, provided the actual start of construction, repair, reconstruction, substantial improvement or other

improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. A minimum of one inspection approval must be obtained as evidence that work, was commenced or that work has continued. Permanent construction does not include initial land preparation such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers or foundations , erection of temporary forms, or installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Subdivision means a division of a tract of land into a minimum of two (2) or more lots.

Substantial damage means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged-condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition or

other improvement to a structure, taking place during a ten-year period, where the cumulative cost equals or exceeds 50 percent of the market value or the structure prior to the improvement. The market value of the structure means:

(1) The appraised value of the structure as determined by the county tax assessor prior to the start of the initial repair or improvement; or

(2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions, that have been pre-identified by the code enforcement official, and are not solely triggered by an improvement or repair project.

Substantially improved existing manufactured home park or subdivision means 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 means a grant of relief from the requirements of this article.

Violation means the failure of a structure or other development to be fully compliant with the requirements of this article. A structure or other development without the elevation certificate, other certificates, or other evidence of compliance required in this article is presumed to be in violation until such time as documentation

is provided.

Sec. 104-85. General provisions.

(a) *Purpose and intent.* The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, stream bank and stream corridor protection, wetlands preservation and ecological and environmental protection. This article seeks to meet this purpose through the following provisions:

(1) Require that uses vulnerable in floods, including facilities that serve such uses, are protected against flood damage at the time of initial construction;

(2) Restrict or prohibit uses dangerous to health, safety and property due to flooding or erosion hazards, or that increase flood heights, velocities, or erosion;

(3) Control filling, grading, dredging and other development that may increase flood damage or erosion;

(4) Prevent or regulate the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards to other lands;

(5) Limit the alteration of natural floodplains, stream channels, and natural protective barriers that accommodate floodwaters; and

(6) Protect the functions of stormwater management; water quality, stream banks and corridors, wetlands, ecological functions of natural floodplain areas, and dams or impoundments.

(b) *Applicability.* This article shall be applicable to all areas of special flood hazard and all areas "adjacent" to an area of special flood hazard, within the county, as defined herein. A property shall be subject to the terms and conditions of this article whenever a permit or approval is required by the county or when other development is proposed.

(c) *Administration of article.* The Environmental Management Director is hereby appointed to administer and implement the provisions of this article.

(d) *Compatibility with other regulations.* This article is not intended to modify or repeal any other ordinance, rule, regulation, statute, casement, covenant, deed restriction or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or order provision of law and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(e) *Basis for establishing areas of special flood hazard, areas of future-conditions flood hazard and associated floodplain characteristics - flood area maps and studies.* For the purposes of defining and determining areas of special flood hazard, areas of future-conditions flood hazard, base flood elevations, floodplains, floodways, future-

conditions flood elevations, future-conditions floodplain, potential flood hazard or risk categories as shown on FIRM maps, and other terms used in this article, the following documents and sources may be used for such purposes and are adopted by reference:

(1) The September 26, 2008, flood insurance study (FIS) on file with the Environmental Management Department, with accompanying maps and other supporting data and any revision thereto.

(2) The Fayette County 2013 Limited Detailed Future Conditions Flood Study on file with the Environmental Management Department, with accompanying maps and other supporting data.

(3) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the base or one-percent (100-year) floodplain and flood prone areas including:

a. Any flood or flood-related study conducted by the United Suites Army Corps of Engineers, the United States Geological Survey or any other local, state or federal agency applicable to the county; and

b. Any base flood study conducted by a licensed professional engineer that which has been prepared utilizing FEMA-approved methodology and approved by the Environmental Management Department.

(4) Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions

floodplain and flood prone areas include:

a. Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, state or federal agency applicable to the county; and

b. Any future-conditions flood study that is conducted by a licensed professional engineer in the state that has been prepared utilitizing FEMA-approved methodology and approved by the Environmental Management Department. Fayette County will only accept independent studies indicating a 100 year elevation different from the Fayette County 2013 Limited Detailed Future Conditions Flood Study if a HEC-RAS qualified independent engineer can demonstrate to Fayette County that results are accurate. This demonstration will include incorporating agreed upon independent parameters into the Fayette County 2013 Limited Detailed Future Conditions Flood Study HEC-RAS model in such a manner that there are no hydraulic jumps. The altered HEC-RAS model must be submitted to Environmental Management Department in the electronic HEC-RAS file format.

(5) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the county Environmental

Management Department.

(f) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, flood heights may be increased by manmade or natural causes. This article 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 article shall not create liability on the part of the county or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Sec. 104-86. Standards for development.

(a) *Determination of floodplain boundaries.*

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

(2) For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations shall be provided by the Environmental Management Department. If future-conditions elevation data is not available from the Environmental Management Department, then it shall he determined by a licensed professional engineer using a method approved by FEMA and the Environmental Management Department.

(3) For streams or other drainage basins with drainage areas less than 100 acres, areas of special flood hazard shall be determined by a licensed

professional engineer using a method approved by the Environmental Management Department, as required by the Environmental Management Director.

(4) The area of special flood hazard shall be delineated for all manmade flood hazards (e.g., yard drains, stormwater management structures, inlets to storm sewer systems, dams or impoundments, etc.) by a licensed professional engineer.

(b) *Determination of floodway boundaries.* The width of a floodway shall be determined from the FIS, the Fayette County 2013 Future-conditions Flood Study or other FEMA-approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway shall be provided by the Environmental Management Department. If floodway data is not available from the Environmental Management Department, then it shall be determined by a licensed professional engineer using a method approved by FEMA and the Environmental Management Department.

(c) *General standards.*

(1) No development shall be allowed within an area of special flood hazard or an area of future-conditions flood hazard that could result in any of the following:

a. Raising the base flood elevation or future-conditions flood elevation equal to or more than one 0.01 foot;

b. Reducing the base-flood or future-conditions flood storage

capacity;

c. Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or

d. Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.

(2) Any development within an area of special flood hazard or an area of future-conditions flood hazard allowed under subsection (c)(1) of this section shall also meet the following conditions:

a. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;

b. Cut areas shall be stabilized and graded to a slope of no less than two percent;

c. Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not

increased or decreased;

d. Verification of no-rise conditions, [0.01 foot or less], flood storage volumes, and flow characteristics shall he provided via a step-backwater analysis meeting the requirements of section 104-88(e);

e. Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from floodwaters; and

f. Any significant physical changes to the base flood floodplain shall he submitted as a conditional letter of map revision (CLOMR) or conditional letter of map amendment (CLOMA), whichever is applicable The CLOMR submittal shall be subject to approval by the Environmental Management Department using the community concurrence forms before forwarding the submittal package to FEMA for final approval The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of development, the applicant shall submit as-built surveys and plans for a final letter of map revision (LOMR).

Sec. 104-87. Provisions for flood damage reduction.

In all areas of special flood hazard and all areas of future-conditions flood hazard, the following provisions apply:

(a) *General standards.*

(1) New construction and substantial improvement of structures (residential or nonresidential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all requirements of subsection (g) of this section and sections 104-86(a) and 104-88(e) have been met;

(2) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;

(3) New construction and substantial improvements shall he constructed with materials and utility equipment resistant to flood damage;

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

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

a. Designs for complying with this requirement must either be

certified by a licensed professional engineer or architect to meet or exceed the following minimum criteria:

1. 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;
2. The bottom of all openings shall be no higher than one foot above grade; and
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.

b. So as not to violate the "lowest floor" criteria of this article, the unfinished and flood resistant enclosure shall solely be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and

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

(6) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or

accumulating within the components during conditions of flooding;

(7) Manufactured homes shall be anchored to prevent flotation, collapse, 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;

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

(9) 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 floodwaters;

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

(11) Any alteration, repair, reconstruction or improvement to a structure that is not compliant with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced;

(12) If the proposed development is located in multiple flood zones or multiple base flood elevations cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence;

(13) All proposed development shall include adequate drainage and

stormwater management facilities per the requirements of Article XIV, Fayette County Development Regulation to reduce exposure to flood hazards;

(14) Public utilities, such as gas and electric systems, shall be located and constructed to minimize or eliminate flood damage or public safety hazards; and

(15) When only a portion of a proposed structure is located within a flood zone or the future-conditions floodplain, the entire structure shall meet the requirements of this article.

(b) *Building standards for structures and buildings within the future-conditions floodplain.* The following provisions, in addition to those in subsection (a) of this section, shall apply:

(1) Residential and nonresidential building structures.

a. New construction of any structure shall not be allowed within the limits of the future-conditions floodplain unless all requirements of subsection (g) of this section and sections 104-86(c) and 104-88(e) have been met. If all of the requirements of subsection (g) of this section, and sections 104-86(c) and 104-88(e) have been met, all new construction shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid

foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of subsection (a)(5) of this section. A licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Environmental Management Department.

b. Substantial improvement of any structure shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with standards of subsection (a)(5) of this section. A licensed professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Environmental Management Department.

c. *Accessory structures and facilities.* Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, recreational facilities and other similar nonhabitable structures and facilities) which meet the requirements of Sections 104-86(c), 104-88(e) and 104-87(g) and are permitted to be located within the limits of the future-conditions floodplain shall be constructed of flood-resistant materials and designed to provide adequate flood openings in accordance with subsection (a)(5)(a) of this section and be anchored to prevent flotation, collapse and lateral movement of the structure.

(3) *Standards for recreational vehicles.* All recreational vehicles placed on sites must either:

a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

b. Meet all the requirements in subsection (b)(1) of this section, including the anchoring and elevation requirements.

(4) *Standards for manufactured homes.*

a. New manufactured homes shall not be allowed to be placed

within the limits of the future-conditions floodplain unless all requirements of subsection (g) of this section and sections 104-86(e) and 104-88(e) have been met. If all the requirements of these sections have been met, all new construction and substantial improvement shall have the lowest floor, including basement, elevated no lower than three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to automatically equalize the hydrostatic flood forces on exterior walls shall be provided in accordance with Section 104-87(5)a.

b. Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:

1. The lowest floor of the manufactured home is elevated no lower than three feet above the level of the base flood elevation, or one foot above the future-conditions flood elevation, whichever is higher; or

2. The manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least an equivalent strength) of no less

than 36 inches in height above grade.

c. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with standards of subsection (a)(7) of this section.

(c) *Building standards for structures and buildings authorized adjacent to the future-conditions floodplain.* For purposes of this article, the term "adjacent to the future-conditions floodplain" includes: all buildings and structures on a property that contains (partially or entirely) an area of special flood hazard; or all buildings and structures on a property that shares a common property line with another parcel that contains an area of special flood hazard. Residential and nonresidential buildings and structures adjacent to the future-conditions floodplain shall meet the following:

(1) For new and substantial improvement construction, the elevation of the lowest floor, including basement and access to the building, shall be at least three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher. Compliance with the above requirement shall be submittal of an as-built elevation certificate and submitted immediately upon completion of floodproofing or survey work. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same.

a. Buildings and structures authorized adjacent to the future-

conditions floodplain may be exempt from the requirements of this section if the following conditions apply:

1. The building or structure is not within the same sub-basin as the area of special flood hazard and the drainage divide between the area of special flood hazard and the building or structure of concern is at least three feet above the base flood elevation or one foot above the future-conditions flood elevation, whichever is higher; or

2. The area of special flood hazard is a manmade hazard associated with a storm sewer system (e.g., a yard drain) and the grading within the sub-basin provides unconstrained, positive drainage away from the building or structure at a minimum slope of two percent.

b. The Environmental Management Department shall determine if either of these conditions is applicable to a structure. Alternatively, the owner/developer may provide a letter justifying applicability of the exemptions. The letter shall be prepared by a licensed professional engineer and shall be reviewed and approved by the Environmental Management Department in order for the exemption to be valid. In either case, the owner/applicant shall be solely responsible for

providing any as-built elevation data necessary to determine applicability of the exemptions. The elevation data shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same.

(d) *Building standards for residential single-lot developments on streams without an established base flood elevations and floodway (A-zones).* For a residential single-lot development not part of a subdivision that contains an area of special flood hazard, where streams exist but no base flood data have been provided (A-zones), the Environmental Management Department shall review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a federal, state, local or other source, in order to administer the provisions and standards of this article. If data are not available from any of these sources, the following provisions shall apply:

(1) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or 50 feet from the top of the bank of the stream, whichever is greater.

(2) In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet above the ground immediately around the building and positive drainage must be provided at a minimum two percent slope away from the building.

Flood openings sufficient to facilitate automatic equalization of hydrostatic flood forces shall be provided for flood prone enclosures in accordance with subsection (a)(5) of this section.

(e) *Standards for subdivisions.*

(1) All subdivision proposals shall identify the areas of special flood hazards and provide base flood elevation data and future-conditions flood elevation data;

(2) All residential lots in a subdivision proposal shall have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future-conditions floodplain for residential structures will not be required; and

(3) All subdivision plans will provide the elevations of proposed structures in accordance with section 104-88(b).

(f) *Floodway encroachments.* Located within areas of special flood hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to the velocity of floodwaters, and debris or erosion potential. Floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

(1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in subsection (g)(2) of this section;

(2) Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A licensed professional engineer must provide supporting technical data and certification thereof; and

(3) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the Environmental Management Department until an affirmative conditional letter of map revision (CLOMR) is issued by FEMA or a no-rise certification is approved by the Environmental Management Department.

(g) *Maintenance requirements.* The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on the property so that the flood-carrying or flood storage capacity is maintained. The Environmental Management Department may direct the property owner (at no cost to the county) to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the Environmental Management Department.

Sec. 104-88. Permit procedures and requirements.

(a) *Permit application requirements.* No owner or developer shall be approved for or perform any development activities on a site where an area of special flood hazard or area of future-conditions flood hazard is located without first meeting the applicable requirements, restrictions, and criteria of this chapter prior to commencing the proposed activity. Unless specifically excluded by this article, any landowner or developer desiring a permit for a development activity shall submit to the Environmental Management Department documentation showing compliance with this article.

(b) *Floodplain management plan requirements.* A floodplain management plan shall be required for all projects with development activities within, either partially or completely, an area of special flood hazard or an area of future-conditions flood hazard. The plan shall include the following items:

(1) Site plan drawn to scale, which includes but is not limited to:

a. Existing and proposed elevations of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material, and storage of materials or equipment;

b. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one-foot contour elevations throughout the building

site;

c. Proposed locations of water supply, sanitary sewer, and utilities;

d. Proposed locations of drainage and stormwater management facilities;

e. Proposed grading plan;

f. Base flood elevations and future-conditions flood elevations;

g. Boundaries of the base flood floodplain and future-conditions floodplain;

h. If applicable, the location of the floodway; and

i. Certification of the above by a licensed professional engineer or surveyor.

(2) Building and foundation design detail, including but not limited to:

a. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;

b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

c. Certification that any proposed nonresidential floodproofed structure meets the criteria in section 104-87(b)(2); and

d. For enclosures below the base flood elevation, location and total net area of flood openings as required in section 104-87(a)5.

(3) Description of the extent to which any watercourse will be altered or

relocated as a result of the proposed development;

(4) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre- and post-development conditions base flood elevations, future-conditions flood elevations, flood protection elevations, special flood hazard areas and regulatory floodways, flood profiles and all other computations and other information similar to that presented in the FIS;

(5) Copies of all applicable state and federal permits necessary for proposed development, including but not limited to permits required by Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334; and,

(6) All appropriate certifications required under this chapter.

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

(c) *Construction stage submittals.* For all new construction and substantial improvements on sites with a floodplain management plan, the permit holder shall provide to the Environmental Management Department a certified as-built elevation certificate or floodproofing certificate for nonresidential construction that includes the lowest floor elevation or floodproofing level immediately after the lowest floor or

floodproofing is constructed. A final elevation certificate shall be provided after completion of construction including final grading of the site. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. Any work undertaken prior to approval of these certifications shall be at the permit holder's risk. The Environmental Management Department shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work proceeding. Failure to submit certification or failure to make the corrections required hereby shall be cause to issue a stop work order for the project.

(d) *Duties and responsibilities of the administrator.* Duties of the Environmental Management Department shall include, but are not limited to:

(1) Review of all development applications and permits to assure that the requirements of this article have been satisfied and to determine whether proposed building sites will be reasonably safe from flooding;

(2) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by federal and/or state law, including but not limited to, section 404 of the Federal Water Pollution Control Act Amendments of 1972, No. 33 USC 1334;

(3) When base flood elevation data or floodway data have not been provided, then the Environmental Management Department shall

require the applicant to obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to meet the provisions of sections 104-86 and 104-87;

(4) Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new and substantially improved structures;

(5) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been floodproofed;

(6) When floodproofing is utilized for a nonresidential structure, the Environmental Management Department shall review the design and operation and maintenance plans and obtain certification from a licensed professional engineer or architect;

(7) Notify affected adjacent communities and the Georgia Department of Natural Resources (GA DNR) prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA;

(8) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions) the Environmental Management Director shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as

provided in this chapter. Where floodplain elevations have been defined, the floodplain shall be determined based on flood elevations rather than the area graphically delineated on the floodplain maps;

(9) All records pertaining to the provisions of this chapter shall be maintained by the county and shall be open for public inspection;

(10) Coordinate all FIRM revisions with the GA DNR and FEMA; and

(11) Review variance applications and make recommendations to the Fayette County Planning Commission.

(e) *Engineering study requirements for floodplain encroachments.* An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of section 104-87(d) apply. This study shall be prepared by a currently licensed professional engineer in the state and made a part of the application for a permit. This information shall be submitted to and approved by the Environmental Management Department prior to the approval of any permit authorizing the disturbance of land located within the future-conditions floodplain. Such study shall include:

(1) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;

(2) Step-backwater analysis, using a FEMA-approved methodology approved by the stormwater management department. Cross sections

and flow information shall be obtained whenever available and supplemented by the applicant or by the stormwater management department. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles, and future-conditions flood profiles;

(3) Floodplain storage calculations based on cross sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development; and

(4) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

Sec. 104-89. Variance procedures.

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development activity or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this chapter.

(1) Requests for variances from the requirements of this chapter shall be submitted to the Environmental Management Department. All such requests shall be heard and decided in accordance with procedures to be published in writing by the Environmental Management Department.

At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(2) Any person adversely affected by any decision of the Environmental Management Department shall have the right to appeal such decision to the Fayette County Planning Commission as established by the county in accordance with procedures to be published in writing by the county planning commission. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.

(3) Any person aggrieved by the decision of the Fayette County Planning Commission may appeal such decision to the county state court, as provided in section 5-4-1 of the Official Code of Georgia Annotated (O.C.G.A. § 5-4-1).

(4) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.

(5) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

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

(7) In reviewing such requests, the Environmental Management Department and the Fayette County Planning Commission shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this chapter.

(8) Conditions for variances.

a. A variance shall be issued only when all of the following conditions are met;

1. A finding of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.

b. The provisions of this chapter are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief

c. Any person to whom a variance is granted shall be given written

notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance resulting from the lowest floor elevation being placed below the base flood elevation will be commensurate with the increased risk to life and property and such costs may be as high as $25 or $100 of insurance coverage provided.

d. The Environmental Management Department shall maintain the records of all variance actions and report them to the GA DNR upon request.

(9) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as Environmental Management Department and the Fayette County Planning Commission shall deem necessary for consideration of the request.

(10) Upon consideration of the factors listed in subsection (8) of this section and the purposes of this chapter, the Environmental Management Department and the Fayette County Planning Commission may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this chapter.

(11) Variances shall not be issued "after the fact."

Sec. 104-90. Violations, enforcement and notice.

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

(b) Notice of violation. If the Environmental Management Department determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this chapter, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this chapter without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

(1) The name and address of the owner or the applicant or the responsible person;

(2) The address or other description of the site upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management

plan or this article and the date for the completion of such remedial action; and

(5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.

Sec. 104-91. Penalties.

(a) In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of actions or penalties set forth in subsection (c) of this section may be taken or assessed against the person to whom the notice of violation was directed.

(b) Before taking any of the following actions or imposing any of the following penalties, the stormwater management department shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation.

(c) In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the stormwater management department may take any one or more of the following actions or impose any one or more of the following penalties:

(1) *Stop work order.* The Environmental Management Department may issue a stop work order which shall be served on the applicant or other

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

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

(3) *Suspension, revocation or modification of permit.* The Environmental Management Department may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the stormwater management department may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to

cure such violations.

(4) *Civil penalties.* In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days, or such greater period as the Environmental Management Department shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the Environmental Management Department has taken one or more of the actions described in subsection (c)(1)—(3) of this section, the stormwater management department may impose a penalty not to exceed $1,000.00 (depending on the severity of the violation) for each day the violation is not remediated after receipt of the notice of violation.

(5) *Criminal penalties.* For intentional violations of this chapter, the Environmental Management Department may issue a citation to the applicant or other responsible person, requiring such person to appear in the county state court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed $1,000.00 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

Secs. 104-92 through 104-110. Reserved.

Section 2. This ordinance shall become effective immediately upon its adoption by the Board of Commissioners for Fayette County.

Section 3. All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. In any event any section, subsection, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not a part thereof. The Board of Commissioners hereby declares that it would have passed the remaining parts of this Ordinance if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

SO ENACTED this _____ day of _____, 2015.

BOARD OF COMMISSIONERS OF
FAYETTE COUNTY

By:_____

Charles W. Oddo, Chairman

(SEAL)

ATTEST:

_____

Floyd Jones, County Clerk

Approved as to form:

_____

County Attorney