

1 **STATE OF GEORGIA**

2 **CITY OF LITHONIA**

3 **ORDINANCE NO.2021-02-02**

4 AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF LITHONIA,
5 GEORGIA, BY ADDING SECTION 2 (FLOODPLAIN MANAGEMENT); TO PROVIDE FOR
6 SEVERABILITY; TO PROVIDE FOR CODIFICATION; TO PROVIDE AN ADOPTION AND
7 EFFECTIVE DATE; AND FOR OTHER LAWFUL PURPOSES.

8 **WHEREAS**, the duly elected governing authority of the City of Lithonia, Georgia (the
9 “City”) is the Mayor and Council thereof; and

10 **WHEREAS**, the City of Lithonia is authorized by O.C.G.A. §36-35-3 to adopt ordinances
11 relating to its property, affairs, and local government; and

12 **WHEREAS**, the City’s Code of Ordinances should be amended and updated in order to
13 provide for the proper regulation of land and water, in order to comply with current Georgia law,
14 and

15 **WHEREAS**, the Mayor and City Council have determined that it is appropriate to amend
16 said sections of the Code of Ordinances of the City of Lithonia to be consistent with state law and
17 to further protect the public health, safety, and welfare of the citizens of the City.

18 **NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR**
19 **AND COUNCIL OF THE CITY OF LITHONIA, GEORGIA** and by the authority thereof:

20 **Section 1.** The City of Lithonia, Georgia’s Code of Ordinances is amended by adding Sec.
21 2 (Floodplain Management)

22
23 **Section 2. General Provisions**

24
25 **2.1 Purpose and Intent**
26 The purpose of this ordinance is to protect, maintain and enhance the public health,
27 safety, environment and general welfare and to minimize public and private losses due to

28 flood conditions in flood hazard areas, as well as to protect the beneficial uses of
29 floodplain areas for water quality protection, streambank and stream corridor protection,
30 wetlands preservation, and ecological and environmental protection by provisions
31 designed to:

- 32
33 (1) Require that uses vulnerable to floods, including facilities which serve such uses,
34 be protected against flood damage at the time of initial construction;
- 35
36 (2) Restrict or prohibit uses which are dangerous to health, safety and property due to
37 flooding or erosion hazards, or which increase flood heights, velocities, or
38 erosion;
- 39
40 (3) Control filling, grading, dredging, and other development which may increase
41 flood damage or erosion;
- 42
43 (4) Prevent or regulate the construction of flood barriers which will unnaturally divert
44 flood waters or which may increase flood hazards to other lands;
- 45
46 (5) Limit the alteration of natural floodplains, stream channels, and natural protective
47 barriers, which are involved in the accommodation of flood waters; and
- 48
49 (6) Protect the stormwater management, water quality, streambank protection, stream
50 corridor protection, wetland preservation, and ecological functions of natural
51 floodplain areas.

52 53 **2.2 Applicability**

54 This ordinance shall be applicable to all Areas of Special Flood Hazard within the
55 jurisdiction of (**jurisdiction**).

56 57 **2.3 Designation of Ordinance Administrator**

58 The (**title of administrator**) or (**designee**) is hereby appointed to administer and
59 implement the provisions of this ordinance.

60 61 **2.4 Basis for Establishing Areas of Special Flood Hazard, Areas of Future- 62 Conditions Flood Hazard and Associated Floodplain Characteristics – Flood Area 63 Maps and Studies**

64 For the purposes of defining and determining “Areas of Special Flood Hazard,” “Areas of
65 Future-conditions Flood Hazard,” “Areas of Shallow Flooding,” “Base Flood
66 Elevations,” “Floodplains,” “Floodways,” “Future-conditions Flood Elevations,” “Future-
67 conditions Floodplains,” potential flood hazard or risk categories as shown on FIRM
68 maps, and other terms used in this ordinance, the following documents and sources may
69 be used for such purposes and are adopted by reference thereto:

- 70
71 (1) The Flood Insurance Study (FIS), dated _____, with accompanying
72 maps and other supporting data and any revision thereto. [*For those land areas
73 acquired by a municipality through annexation, the current effective FIS and data
74 for (unincorporated county), dated _____, with accompanying maps*

75 *and other supporting data and any revision thereto.]*
76

- 77 (2) Other studies, which may be relied upon for the establishment of the base flood
78 elevation or delineation of the base or one-percent (100-year) floodplain and
79 flood-prone areas, including:
80
- 81 (a) Any flood or flood-related study conducted by the United States Army
82 Corps of Engineers, the United States Geological Survey or any other
83 local, State or Federal agency applicable to **(jurisdiction)**; and
84
- 85 (b) Any base flood study conducted by a licensed professional engineer which
86 has been prepared utilizing FEMA approved methodology and approved
87 by **(jurisdiction)**.
88
- 89 (3) Other studies, which may be relied upon for the establishment of the future-
90 conditions flood elevation or delineation of the future-conditions floodplain and
91 flood-prone areas, including:
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- 93 (a) Any flood or flood-related study conducted by the United States Army
94 Corps of Engineers, the United States Geological Survey, or any other
95 local, State or Federal agency applicable to **(jurisdiction)**; and
96
- 97 (b) Any future-conditions flood study conducted by a licensed professional
98 engineer which has been prepared utilizing FEMA approved methodology
99 approved by **(jurisdiction)**.
100
- 101 (4) The repository for public inspection of the FIS, accompanying maps and other
102 supporting data is located at **(specify repository location)**.
103

104 **2.5 Compatibility with Other Regulations**

105 This ordinance is not intended to modify or repeal any other ordinance, rule, regulation,
106 statute, easement, covenant, deed restriction or other provision of law. The requirements
107 of this ordinance are in addition to the requirements of any other ordinance, rule,
108 regulation or other provision of law, and where any provision of this ordinance imposes
109 restrictions different from those imposed by any other ordinance, rule, regulation or other
110 provision of law, whichever provision is more restrictive or imposes higher protective
111 standards for human health or the environment shall control.
112

113 **2.6 Severability**

114 If the provisions of any section, subsection, paragraph, subdivision or clause of this
115 ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment
116 shall not affect or invalidate the remainder of any section, subsection, paragraph,
117 subdivision or clause of this ordinance.
118

119 **2.7 Warning and Disclaimer of Liability**

120 The degree of flood protection required by this ordinance is considered reasonable for
121 regulatory purposes and is based on scientific and engineering considerations. Larger
122 floods can and will occur; flood heights may be increased by manmade or natural causes.

123 This ordinance does not imply that land outside the Areas of Special Flood Hazard or
124 uses permitted within such areas will be free from flooding or flood damages. This
125 ordinance shall not create liability on the part of (**jurisdiction**) or any officer or
126 employee.

127
128 thereof for any flood damages that result from reliance on this ordinance or any
129 administrative decision lawfully made thereunder.

130

131 **Section 2.8 Definitions**

132

133 * *NOTE: data must be inserted*

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

136 "**Appeal**" means a request for a review of the (**ordinance administrator**)'s
137 interpretation of any provision of this ordinance.

138 "**Area of Future-conditions Flood Hazard**" means the land area that would be
139 inundated by the one-percent-annual-chance flood based on future-conditions hydrology
140 (100-year future-conditions flood).

141 "**Area of Shallow Flooding**" means a designated AO or AH Zone on a community's
142 Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding to an
143 average depth of one to three feet where a clearly defined channel does not exist, where
144 the path of flooding is unpredictable and indeterminate, and where velocity flow may be
145 evident. Such flooding is characterized by ponding or sheet flow.

146 "**Area of Special Flood Hazard**" means the land area subject to a one percent or greater
147 chance of flooding in any given year. This includes all floodplain and flood prone areas at
148 or below the base flood elevation designated as Zones A, A1-30, A-99, AE, AO, AH, and
149 AR on a community's Flood Insurance Rate Map (FIRM).

150 "**Accessory Structure or Facility**" means a structure which is on the same parcel of
151 property as the principal structure and the use of which is incidental to the use of the
152 primary structure.

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

155 "**Base Flood Elevation**" means the highest water surface elevation anticipated at any
156 given location during the base flood.

157 "**Basement**" means any area of a building having its floor subgrade below ground level
158 on all sides.

159 "**Building**" has the same meaning as "**Structure**".

160 "**Development**" means any man-made change to improved or unimproved real estate
161 including but not limited to buildings or other structures, mining, dredging, filling,
162 clearing, grubbing, grading, paving, any other installation of impervious cover,
163 excavation or drilling operations or storage of equipment or materials.

164 "**Elevated Building**" means a non-basement building which has its lowest elevated floor

165 raised above the ground level by foundation walls, shear walls, posts, piers, pilings, or
166 columns.

167 **"Existing Construction"** Any structure for which the "start of construction" commenced
168 before (* specific date) [** i.e., the effective date of the INITIAL floodplain management*
169 *code or ordinance adopted by the community as a basis for that community's*
170 *participation in the National Flood Insurance Program (NFIP)].*

171 **"Existing Manufactured Home Park or Subdivision"** means a manufactured home
172 park or subdivision for which the construction of facilities for servicing the lots on which
173 the manufactured homes are to be affixed (including, at a minimum, the installation of
174 utilities, the construction of streets, and either final site grading or the pouring of concrete
175 pads) is completed before (* specific date) [**i.e., the effective date of the INITIAL*
176 *floodplain management regulations adopted by a community].*

178 **"Expansion to an Existing Manufactured Home Park or Subdivision"** means the
179 preparation of additional sites by the construction of facilities for servicing the lots on
180 which the manufactured homes are to be affixed (including the installation of utilities, the
181 construction of streets, and either final site grading or the pouring of concrete pads).

182 **"FEMA"** means the Federal Emergency Management Agency.

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

185 2.7.1 the overflow of inland or tidal waters; or

186 2.7.2 the unusual and rapid accumulation or runoff of surface waters

187 from any source.

188 **"Flood Insurance Rate Map" or "FIRM"** means an official map of a community,
189 issued by FEMA, delineating the areas of special flood hazard and/or risk premium zones
190 applicable to the community.

191 **"Flood Insurance Study" or "FIS"** means the official report by FEMA providing an
192 examination, evaluation and determination of flood hazards and corresponding flood
193 profiles and water surface elevations of the base flood.

194 **"Floodplain" or "Flood-prone Area"** means any land area susceptible to flooding.

195 **"Floodproofing"** means any combination of structural and non-structural additions,
196 changes, or adjustments to structures which reduce or eliminate flood damage to real
197 estate or improved real property, water and sanitary facilities, structures and their
198 contents.

199 **"Floodway" or "Regulatory Floodway"** means the channel of a stream, river, or other
200 watercourse and the adjacent areas that must be reserved in order to discharge the base
201 flood without cumulatively increasing the water surface elevation more than a designated
202 height.

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

208 **"Future-conditions Flood"** means the flood having a one percent chance of being
209 equaled or exceeded in any given year based on future-conditions hydrology. Also
210 known as the 100-year future-conditions flood.

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"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 stormwater management (flood detention) structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and 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:

- (a) 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;
- (b) 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;
- (c) 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
- (d) Individually listed on a local inventory of historic places by communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior, or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

"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 in an area other than a basement area, 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 ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is 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 Flood Insurance Rate Map (FIRM) are referenced. For purposes of this ordinance the term is synonymous with National Geodetic Vertical Datum (NGVD) of

257 1929 or the North American Vertical Datum (NAVD) of 1988.
258 **"New Construction"** means any structure (see definition) for which the "start of
259 construction" commenced on or after (* specific date) and includes any subsequent
260 improvements to the structure. [** i.e., the effective date of the INITIAL floodplain*
261 *management ordinance adopted by the community as a basis for community participation*
262 *in the (NFIP)].*

263 **"New Manufactured Home Park or Subdivision"** means a manufactured home park or
264 subdivision for which the construction of facilities for servicing the lots on which the
265 manufactured homes are to be affixed (including at a minimum, the installation of
266 utilities, the construction of streets, and either final site grading or the pouring of concrete
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268 pads) is completed on or after (* specific date) [** i.e., the effective date of the INITIAL*
269 *floodplain management ordinance adopted by a community)].*

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

273 **"Permit"** means the permit issued by the (**jurisdiction or local permitting authority**)
274 to the applicant which is required prior to undertaking any development activity.

275 **"Recreational Vehicle"** means a vehicle which is:

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

281 **"Repetitive Loss"** means flood related damage sustained by a structure on two separate
282 occasions during a 10-year period for which the cost of repairs at the time of each such
283 flood event, on the average, equals or exceeds 25 percent of the market value of the
284 structure before the damage occurred.

☞ *NOTE: Inclusion of this definition allows policyholders to avail ICC portion of the flood claim under the repetitive loss declaration by the community in addition to one time substantial flood damage declaration by the community. However, if adopted, the community will need to track the flood damages over the 10-year periods.*

285
286 **"Site"** means the parcel of land being developed, or the portion thereof on which the
287 development project is located.

288 **"Start of Construction"** includes substantial improvement, and means the date the
289 permit was issued, provided the actual start of construction, repair, reconstruction,
290 rehabilitation, addition placement, or other improvement was within 180 days of the
291 permit date. The actual start means either the first placement of permanent construction
292 of the structure on a site, such as the pouring of slabs or footings, the installation of piles,
293 the construction of columns, or any work beyond the stage of excavation; or the
294 placement of a manufactured home on a foundation. Permanent construction does not
295 include initial land preparation, such as clearing, grading and filling; nor does it include

296 the installation of streets and/or walkways; nor does it include excavation for a basement,
297 footings, piers or foundations or the erection of temporary forms; nor does it include the
298 installation on the property of accessory buildings, such as garages or sheds not occupied
299 as dwelling units or part of the main structure. For a substantial improvement, the actual
300 start of construction means the first alteration of any wall, ceiling, floor, or other
301 structural part of a building, whether or not that alteration affects the external dimensions
302 of the building.

303 **"Structure"** means a walled and roofed building (including a gas or liquid storage tank),
304 that is principally above ground, or a manufactured home.

305 **"Subdivision"** means the division of a tract or parcel of land resulting in one or more
306 new lots or building sites for the purpose, whether immediately or in the future, of sale,
307 other transfer of ownership or land development, and includes divisions of land resulting
308 from or made in connection with the layout or development of a new street or roadway or
309 a change in an existing street or roadway.

310 **"Substantial Damage"** means damage of any origin sustained by a structure whereby
311 the cost of restoring the structure to it's before damaged condition would equal or exceed
312 50 percent of the market value of the structure before the damage occurred. This term
313 also includes Repetitive Loss.

314 **"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other
315 improvement to a structure, taking place during a 10-year period, in which the cumulative
316 cost equals or exceeds 50 percent of the market value of the structure prior to the
317 improvement. The market value of the building means (1) the appraised value of the
318 structure prior to the start of the initial repair or improvement, or (2) in the case of
319 damage, the value of the structure prior to the damage occurring. This term includes
320 structures which have incurred "substantial damage," regardless of the actual repair work
321 performed. The term does not, however, include those improvements of a structure
322 required to comply with existing state or local health, sanitary, or safety code
323 specifications which are the minimum necessary to assure safe living conditions, which
324 have been identified by the Code Enforcement Official. The term does also not include
325 any alteration of a historic structure, provided that the alteration will not preclude the
326 structure's continued designation as a historic structure.

327 **"Substantially Improved Existing Manufactured Home Park or Subdivision"** means
328 the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads
329 equals or exceeds 50 percent of the value of the streets, utilities and pads before the
330 repair, reconstruction or improvement commenced.

331 **"Variance"** means a grant of relief from the requirements of this ordinance.

332 **"Violation"** means the failure of a structure or other development to be fully compliant
333 with the requirements of this ordinance. A structure or other development without the
334 elevation certificate, other certifications, or other evidence of compliance required in this
335 ordinance is presumed to be in violation until such time as that documentation is
336 provided.

337

338 Section 2.9. Permit Procedures and Requirements

339

340 A. Permit Application Requirements

341 No owner or developer shall perform any development activities on a site where an Area
342 of Special Flood Hazard or Area of Future-conditions Flood Hazard is located without
343 first meeting the requirements of this ordinance prior to commencing the proposed
344 activity.

345
346 Unless specifically excluded by this ordinance, any landowner or developer desiring a
347 permit for a development activity shall submit to the **(jurisdiction or local permitting**
348 **authority)** a permit application on a form provided by the **(jurisdiction or local**
349 **permitting authority)** for that purpose.

350
351 No permit will be approved for any development activities that do not meet the
352 requirements, restrictions and criteria of this ordinance.

353

354 **B. Floodplain Management Plan Requirements**

355 An application for a development project with any Area of Special Flood Hazard or Area
356 of Future-conditions Flood Hazard located on the site shall include a floodplain
357 management / flood damage prevention plan. This plan shall include the following items:
358

359

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

360

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

364

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

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

368

(d) Proposed locations of drainage and stormwater management facilities;

369

(e) Proposed grading plan;

370

(f) Base flood elevations and future-conditions flood elevations;

371

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

372

(h) If applicable, the location of the floodway; and

373

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

374

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

376

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

378

(b) Elevation in relation to mean sea level to which any non-residential structure
379 will be floodproofed;

380

(c) Certification that any proposed non-residential floodproofed structure meets
381 the criteria in Section 5.2(2);

382

(d) For enclosures below the base flood elevation, location and total net area of
384 flood openings as required in Section 5.1(5); and

385

(e) Design plans certified by a licensed professional engineer or architect for all
386 proposed structure(s).

- 387
388 (3) Description of the extent to which any watercourse will be altered or relocated as
389 a result of the proposed development;
390
391 (4) Hard copies and digital files of computer models, if any, copies of work maps,
392 comparison of pre- and post-development conditions base flood elevations,
393 future-conditions flood elevations, flood protection elevations, Special Flood
394 Hazard Areas and regulatory floodways, flood profiles and all other computations
395 and other information similar to that presented in the FIS;
396
397 (5) Copies of all applicable State and Federal permits necessary for proposed
398 development, including but not limited to permits required by Section 404 of the
399 Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334; and
400
401 (6) All appropriate certifications required under this ordinance.
402

403 The approved floodplain management / flood damage prevention plan shall contain
404 certification by the applicant that all development activities will be done according to the
405 plan or previously approved revisions. Any and all development permits and/or use and
406 occupancy certificates or permits may be revoked at any time if the construction and
407 development activities are not in strict accordance with approved plans.
408

409 **1. Construction Stage Submittal Requirements**

410 For all new construction and substantial improvements on sites with a floodplain
411 management / flood damage prevention plan, the permit holder shall provide to the
412 **(ordinance administrator)** a certified as-built Elevation Certificate or Floodproofing
413 Certificate for non-residential construction including the lowest floor elevation or
414 floodproofing level immediately after the lowest floor or floodproofing is completed. A
415 final Elevation Certificate shall be provided after completion of construction including
416 final grading of the site. Any lowest floor certification made relative to mean sea level
417 shall be prepared by or under the direct supervision of a licensed land surveyor or
418 professional engineer and certified by same. When floodproofing is utilized for non-
419 residential structures, said certification shall be prepared by or under the direct
420 supervision of a licensed professional engineer or architect and certified by same using
421 the FEMA Floodproofing Certificate. This certification shall also include the design and
422 operation/maintenance plan to assure continued viability of the floodproofing measures.
423

424 Any work undertaken prior to approval of these certifications shall be at the permit
425 holder's risk. The **(ordinance administrator)** shall review the above referenced
426 certification data submitted. Deficiencies detected by such review shall be corrected by
427 the permit holder immediately and prior to further work being allowed to proceed.
428

429 Failure to submit certification or failure to make the corrections required hereby shall be
430 cause to issue a stop work order for the project.
431

432 **a. Duties and Responsibilities of the Administrator**

433 Duties of the **(ordinance administrator)** shall include, but shall not be limited to:

- 434
435 (1) Review all development applications and permits to assure that the requirements
436 of this ordinance have been satisfied and to determine whether proposed building
437 sites will be reasonably safe from flooding;
438
- 439 (2) Review proposed development to assure that all necessary permits have been
440 received from those governmental agencies from which approval is required by
441 Federal or State law, including but not limited to Section 404 of the Federal Water
442 Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334;
443
- 444 (3) When Base Flood Elevation data or floodway data have not been provided, then
445 the **(ordinance administrator)** shall require the applicant to obtain, review and
446 reasonably utilize any base flood elevation and floodway data available from a
447 Federal, state or other sources in order to meet the provisions of Sections 4 and 5;
448
- 449 (4) Review and record the actual elevation in relation to mean sea level (or highest
450 adjacent grade) of the lowest floor, including basement, of all new and
451 substantially improved structures;
452
- 453 (5) Review and record the actual elevation, in relation to mean sea level to which any
454 substantially improved structures have been floodproofed;
455
- 456 (6) When floodproofing is utilized for a non-residential structure, the **(ordinance**
457 **administrator)** shall review the design and operation/maintenance plan and
458 obtain certification from a licensed professional engineer or architect;
459
- 460 (7) Notify affected adjacent communities and the Georgia Department of Natural
461 Resources (GA DNR) prior to any alteration or relocation of a watercourse and
462 submit evidence of such notification to the Federal Emergency Management
463 Agency (FEMA);
464
- 465 (8) Where interpretation is needed as to the exact location of boundaries of the Areas
466 of Special Flood Hazard (e.g. where there appears to be a conflict between a
467 mapped boundary and actual field conditions) the **(ordinance administrator)**
468 shall make the necessary interpretation. Any person contesting the location of the
469 boundary shall be given a reasonable opportunity to appeal the interpretation as
470 provided in this ordinance. Where floodplain elevations have been defined, the
471 floodplain shall be determined based on flood elevations rather than the area
472 graphically delineated on the floodplain maps;
473
- 474 (9) All records pertaining to the provisions of this ordinance shall be maintained in
475 the office of the **(ordinance administrator)** and shall be open for public
476 inspection;
477
- 478 (10) Coordinate all FIRM revisions with the GA DNR and FEMA; and
479
- 480 (11) Review variance applications and make recommendations to the **(appointed**
481 **board)**.

483 **Section 2.10. Standards for Development**

484

485 **A. Definition of Floodplain Boundaries**

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

489

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

495

496 **B. Definition of Floodway Boundaries**

497 The width of a floodway shall be determined from the FIS or FEMA approved flood
498 study. For all streams with a drainage area of 100 acres or greater, the regulatory
499 floodway shall be provided by the **(jurisdiction)**. If floodway data is not available from
500 the **(jurisdiction)**, it shall be determined by a licensed professional engineer using a
501 method approved by FEMA and the **(jurisdiction)**.

502

503 **a. General Standards**

504

505 (1) No development shall be allowed within any Area of Special Flood Hazard or
506 Area of Future-conditions Flood Hazard that could result in any of the following:

507

508 (a) Raising the base flood elevation or future-conditions flood elevation equal to
509 or more than 0.01 foot;

510 (b) Reducing the base flood or future-conditions flood storage capacity;

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

514 (d) Creating hazardous or erosion-producing velocities, or resulting in excessive
515 sedimentation.

516

517 (2) Any development within any Area of Special Flood Hazard or Area of Future-
518 conditions Flood Hazard allowed under Section 4.3(1) shall also meet the
519 following conditions:

520

521 (a) Compensation for storage capacity shall occur between the average ground
522 water table elevation and the base flood elevation for the base flood, and between
523 the average ground water table elevation and the future-condition flood elevation
524 for the future-conditions flood, and lie either within the boundaries of ownership
525 of the property being developed and shall be within the immediate vicinity of the
526 location of the encroachment. Acceptable means of providing required
527 compensation include lowering of natural ground elevations within the floodplain,

528 or lowering of adjoining land areas to create additional floodplain storage. In no
529 case shall any required compensation be provided via bottom storage or by
530 excavating below the elevation of the natural (pre-development) stream channel
531 unless such excavation results from the widening or relocation of the stream
532 channel;

533 (b) Cut areas shall be stabilized and graded to a slope of no less than 2.0 percent;

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

536 (d) Verification of no-rise conditions (less than 0.01 foot), flood storage volumes,
537 and flow characteristics shall be provided via a step-backwater analysis meeting
538 the requirements of Section 4.4;

539 (e) Public utilities and facilities, such as water, sanitary sewer, gas, and electrical
540 systems, shall be located and constructed to minimize or eliminate infiltration or
541 contamination from flood waters; and

542 (f) Any significant physical changes to the base flood floodplain shall be
543 submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional
544 Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR
545 submittal shall be subject to approval by the **(jurisdiction)** using the FEMA
546 Community Concurrence forms before forwarding the submittal package to
547 FEMA for final approval. The responsibility for forwarding the CLOMR to
548 FEMA and for obtaining the CLOMR approval shall be the responsibility of the
549 applicant. Within six months of the completion of development, the applicant
550 shall submit as-built surveys and plans for a final Letter of Map Revision
551 (LOMR).

552

553 **b. Engineering Study Requirements for Floodplain Encroachments**

554 An engineering study is required, as appropriate to the proposed development activities
555 on the site, whenever a development proposes to disturb any land within the future-
556 conditions floodplain, except for a residential single-lot development on streams without
557 established base flood elevations and floodways. This study shall be prepared by a
558 licensed professional engineer and made a part of the application for a permit. This
559 information shall be submitted to and approved by the **(jurisdiction or local permitting
560 authority)** prior to the approval of any permit which would authorize the disturbance of
561 land located within the future-conditions floodplain. Such study shall include:

- 562
- 563 (1) Description of the extent to which any watercourse or floodplain will be altered or
564 relocated as a result of the proposed development;
- 565
- 566 (2) Step-backwater analysis, using a FEMA-approved methodology approved by the
567 **(local permitting authority)**. Cross-sections (which may be supplemented by
568 the applicant) and flow information will be obtained whenever available.
569 Computations will be shown duplicating FIS results and will then be rerun with
570 the proposed modifications to determine the new base flood profiles, and future-
571 conditions flood profiles;

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

c. Floodway Encroachments

Located within Areas of Special Flood Hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, 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 (2) below.
- (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 that the encroachment will 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 **(jurisdiction)** until an affirmative Conditional Letter of Map Revision (CLOMR) is issued by FEMA or a no-rise certification is approved by the **(jurisdiction)**.

d. 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 **(jurisdiction)** may direct the property owner (at no cost to **[jurisdiction]**) 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 **(jurisdiction or local permitting authority)**.

615 **Section 2.11 Provisions for Flood Damage Reduction**

616
617 In all Areas of Special Flood Hazard and Areas of Future-conditions Flood Hazard the
618 following provisions apply:

619 **A. General Standards**

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621
622 (1) New construction and substantial improvements of structures (residential or non-
623 residential), including manufactured homes, shall not be allowed within the limits
624 of the future-conditions floodplain, unless all requirements of Sections 4.3, 4.4
625 and 4.5 have been met;

626
627 (2) New construction and substantial improvements shall be anchored to prevent
628 flotation, collapse and lateral movement of the structure;

629
630 (3) New construction and substantial improvements shall be constructed with
631 materials and utility equipment resistant to flood damage;

632
633 (4) New construction and substantial improvements shall be constructed by methods
634 and practices that minimize flood damage;

635
636 (5) Elevated Buildings - All new construction and substantial improvements that
637 include any fully enclosed area located below the lowest floor formed by
638 foundation and other exterior walls shall be designed so as to be an unfinished or
639 flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic
640 flood forces on exterior walls by allowing for the automatic entry and exit of
641 floodwater.

642
643 (a) Designs for complying with this requirement must either be certified by a
644 licensed professional engineer or architect to meet or exceed the following
645 minimum criteria:

646 (i) Provide a minimum of two openings having a total net area of not less
647 than one square inch for every square foot of enclosed area subject to
648 flooding;

649 (ii) The bottom of all openings shall be no higher than one foot above
650 grade; and

651 (iii) Openings may be equipped with screens, louvers, valves or other
652 coverings or devices provided they permit the automatic flow of
653 floodwater in both directions.

654 (b) So as not to violate the "Lowest Floor" criteria of this ordinance, the
655 unfinished and flood resistant enclosure shall solely be used for parking of
656 vehicles, limited storage of maintenance equipment used in connection with the
657 premises, or entry to the elevated area; and

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

- 660
661
- 662 (6) All heating and air conditioning equipment and components (including ductwork),
663 all electrical, ventilation, plumbing, and other service facilities shall be designed
664 and/or located three (3) feet above the base flood elevation or one (1) foot above
665 the future-conditions flood elevation, whichever is higher, so as to prevent water
666 from entering or accumulating within the components during conditions of
667 flooding;
- 668
- 669 (7) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral
670 movement. Methods of anchoring may include, but are not limited to, use of over-
671 the-top or frame ties to ground anchors. This standard shall be in addition to and
672 consistent with applicable State requirements for resisting wind forces;
- 673
- 674 (8) All proposed development shall include adequate drainage and stormwater
675 management facilities per the requirements of **(jurisdiction)** to reduce exposure
676 to flood hazards;
- 677
- 678 (9) New and replacement water supply systems shall be designed to minimize or
679 eliminate infiltration of flood waters into the system;
- 680
- 681 (10) New and replacement sanitary sewage systems shall be designed to minimize or
682 eliminate infiltration of flood waters into the systems and discharges from the
683 systems into flood waters;
- 684
- 685 (11) On-site waste disposal systems shall be located and constructed to avoid
686 impairment to, or contamination from, such systems during flooding;
- 687
- 688 (12) Other public utilities such as gas and electric systems shall be located and
689 constructed to avoid impairment to them, or public safety hazards from them,
690 during flooding;
- 691
- 692 (13) Any alteration, repair, reconstruction or improvement to a structure which is not
693 compliant with the provisions of this ordinance, shall be undertaken only if the
694 non-conformity is not furthered, extended or replaced;
- 695
- 696 (14) If the proposed development is located in multiple flood zones, or multiple base
697 flood elevations cross the proposed site, the higher or more restrictive base flood
698 elevation or future condition elevation and development standards shall take
699 precedence;
- 700 (15) When only a portion of a proposed structure is located within a flood zone or the
701 future conditions floodplain, the entire structure shall meet the requirements of
702 this ordinance; and
- 703
- 704 (16) Subdivision proposals and other proposed new development, including
705 manufactured home parks or subdivisions, shall be reasonably safe from

706 flooding:

707

708 (a) All such proposals shall be consistent with the need to minimize flood damage
709 within the flood-prone area;

710 (b) All public utilities and facilities, such as sewer, gas, electrical, and water
711 systems shall be located and constructed to minimize or eliminate flood damage;
712 and

713 (c) Adequate drainage shall be provided to reduce exposure to flood hazards.

714

715 **B. Building Standards for Structures and Buildings Within the Future-**
716 **Conditions Floodplain**

717

718 (1) Residential Buildings

719

720 (a) New construction. New construction of principal residential structures shall
721 not be allowed within the limits of the future-conditions floodplain unless all
722 requirements of Sections 4.3, 4.4 and 4.5 have been met. If all of the
723 requirements of Sections 4.3, 4.4 and 4.5 have been met, all new construction
724 shall have the lowest floor, including basement, elevated no lower than three (3)
725 feet above the base flood elevation or one (1) foot above the future-conditions
726 flood elevation, whichever is higher. Should solid foundation perimeter walls be
727 used to elevate the structure, openings sufficient to automatically equalize the
728 hydrostatic flood forces on exterior walls shall be provided in accordance with
729 standards of Section 5.1(5)(a).

730 (b) Substantial Improvements. Substantial improvement of any principal
731 residential structure shall have the lowest floor, including basement, elevated no
732 lower than three (3) feet above the base flood elevation or one (1) foot above the
733 future-conditions flood elevation, whichever is higher. Should solid foundation
734 perimeter walls be used to elevate a structure, openings sufficient to automatically
735 equalize the hydrostatic flood forces on exterior walls shall be provided in
736 accordance with standards of Section 5.1(5)(a).

737

738 (2) Non-Residential Buildings

739

740 (a) New construction. New construction of principal non-residential structures
741 shall not be allowed within the limits of the future-conditions floodplain unless all
742 requirements of Sections 4.3, 4.4 and 4.5 have been met. If all of the
743 requirements of Sections 4.3, 4.4 and 4.5 have been met, all new construction
744 shall have the lowest floor, including basement, elevated no lower than one (1)
745 foot above the base flood elevation or at least as high as the future-conditions
746 flood elevation, whichever is higher. Should solid foundation perimeter walls be
747 used to elevate the structure, openings sufficient to automatically equalize the
748 hydrostatic flood forces on exterior walls shall be provided in accordance with

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750 standards of Section 5.1(5)(a). New construction that has met all of the
751 requirements of Sections 4.3, 4.4 and 4.5 may be floodproofed in lieu of

752 elevation. The structure, together with attendant utility and sanitary facilities,
753 must be designed to be watertight to one (1) foot above the base flood elevation,
754 or at least as high as the future-conditions flood elevation, whichever is higher,
755 with walls substantially impermeable to the passage of water and structural
756 components having the capability of resisting hydrostatic and hydrodynamic loads
757 and the effect of buoyancy. A licensed professional engineer or architect shall
758 certify that the design and methods of construction are in accordance with
759 accepted standards of practice for meeting the provisions above, and shall provide
760 such certification to the **(ordinance administrator)** using the FEMA
761 Floodproofing Certificate along with the design and operation/maintenance plan.
762 (b) Substantial Improvements. Substantial improvement of any principal non-
763 residential structure located in A1- 30, AE, or AH zones, may be authorized by
764 the **(ordinance administrator)** to be elevated or floodproofed. Substantial
765 improvements shall have the lowest floor, including basement, elevated no lower
766 than one (1) foot above the base flood elevation or at least as high as the future-
767 conditions flood elevation, whichever is higher. Should solid foundation
768 perimeter walls be used to elevate the structure, openings sufficient to
769 automatically equalize the hydrostatic flood forces on exterior walls shall be
770 provided in accordance with standards of Section 5.1(5)(a). Substantial
771 improvements may be floodproofed in lieu of elevation. The structure, together
772 with attendant utility and sanitary facilities, must be designed to be watertight to
773 one (1) foot above the base flood elevation, or at least as high as the future-
774 conditions flood elevation, whichever is higher, with walls substantially
775 impermeable to the passage of water and structural components having the
776 capability of resisting hydrostatic and hydrodynamic loads and the effect of
777 buoyancy. A licensed professional engineer or architect shall certify that the
778 design and methods of construction are in accordance with accepted standards of
779 practice for meeting the provisions above, and shall provide such certification to
780 the **(ordinance administrator)** using the FEMA Floodproofing Certificate along
781 with the design and operation/maintenance plan.

782
783 (3) Accessory Structures and Facilities

784 Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages,
785 recreational facilities and other similar non-habitable structures and facilities)
786 which meet the requirements of Sections 4.3, 4.4 and 4.5 and are permitted to be
787 located within the limits of the future-conditions floodplain shall be constructed
788 of flood-resistant materials and designed to provide adequate flood openings in
789 accordance with Section 5.1(5)(a) and be anchored to prevent flotation, collapse
790 and lateral movement of the structure.

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792 (4) Standards for Recreational Vehicles

793 All recreational vehicles placed on sites must either:


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- (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 for Residential Buildings—Substantial Improvements (Section 5.2(1)), including the anchoring and elevation requirements.

(5) 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 Sections 4.3, 4.4 and 4.5 have been met. If all of the requirements of Sections 4.3, 4.4 and 4.5 have been met, all new construction and substantial improvement shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) 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 Section 5.1(5)(a).
- (b) Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision shall be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated no lower than three (3) feet above the level of the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher; or
 - (ii) 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 Section 5.1(7).

a. Building Standards for Structures and Buildings Authorized Adjacent to the Future-Conditions Floodplain

 *NOTE: A definition of “adjacent” should be included in an adopted ordinance. This definition might include those areas located within the defined horizontal distance from the future-conditions floodplain boundary that are at or lower in elevation than either three (3) feet above the base flood elevation or one (1) 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).*

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- (1) Residential Buildings – For new construction and substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the base flood elevation or one (1) 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 Section 5.1(5)(a).

- (2) Non-Residential Buildings – For new construction and substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one (1) foot above the level of the base flood elevation or at least as high as 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 Section 5.1(5)(a). Non-residential buildings may be floodproofed in lieu of elevation.

b. Building Standards for Residential Single-Lot Developments on Streams Without Established Base Flood Elevations and Floodway (A-Zones)

For a residential single-lot development not part of a subdivision that has Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones), the **(ordinance administrator)** 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 ordinance.

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 fifty (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 (3) feet above the highest adjacent grade at the building site. Flood openings sufficient to facilitate automatic equalization of hydrostatic flood forces shall be provided for flood prone enclosures in accordance with Section 5.1(5)(a).

c. 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 (1) to three (3) feet above ground, with no clearly defined channel. In these areas the following provisions apply:

- 879 (1) All new construction and substantial improvements of residential and non-
880 residential structures shall have the lowest floor, including basement, elevated to
881 no lower than one (1) foot above the flood depth number in feet specified on the
882 Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood
883 depth number is specified, the lowest floor, including basement, shall be elevated
884 at least three (3) feet above the highest adjacent grade. Flood openings sufficient
885 to facilitate automatic equalization of hydrostatic flood forces shall be provided in
886 accordance with standards of Section 5.1(5)(a);
887
- 888 (2) New construction and substantial improvement of a non-residential structure may
889 be floodproofed in lieu of elevation. The structure, together with attendant utility
890 and sanitary facilities, must be designed to be water tight to the specified FIRM
891 flood level plus one (1) foot above the highest adjacent grade, with walls
892 substantially impermeable to the passage of water, and structural components
893 having the capability of resisting hydrostatic and hydrodynamic loads and the
894 effect of buoyancy. A licensed professional engineer or architect shall certify that
895 the design and methods of construction are in accordance with accepted standards
896 of practice, and shall provide such certification to the **(ordinance administrator)**
897 using the FEMA Floodproofing Certificate along with the design and
898 operation/maintenance plan; and
899
- 900 (3) Drainage paths shall be provided to guide floodwater around and away from any
901 proposed structure.
902

903 **d. Standards for Subdivisions of Land**
904

- 905 (1) All subdivision proposals shall identify the Areas of Special Flood Hazard and
906 Areas of Future-conditions Flood Hazard therein and provide base flood elevation
907 data and future-conditions flood elevation data;
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- 909 (2) All residential lots in a subdivision proposal shall have sufficient buildable area
910 outside of the future-conditions floodplain such that encroachments into the
911 future-conditions floodplain for residential structures will not be required; and
912
- 913 (3) All subdivision plans will provide the elevations of proposed structures in
914 accordance with Section 3.2(2).

916 **Section 2.12 Variance Procedures**

917

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

922

923 (1) Requests for variances from the requirements of this ordinance shall be submitted
924 to the **(jurisdiction)**. All such requests shall be heard and decided in accordance
925 with procedures to be published in writing by the **(jurisdiction)**. At a minimum,
926 such procedures shall include notice to all affected parties and the opportunity to
927 be heard.

928

929 (2) Any person adversely affected by any decision of the **(jurisdiction)** shall have the
930 right to appeal such decision to the **(appointed board)** as established by
931 **(jurisdiction)** in accordance with procedures to be published in writing by the
932 **(appointed board)**. At a minimum, such procedures shall include notice to all
933 affected parties and the opportunity to be heard.

934

935 (3) Any person aggrieved by the decision of the **(appointed board)** may appeal such
936 decision to the **(appropriate court)**, as provided in **Section 5-4-1 of the Official**
937 **Code of Georgia Annotated**.

938

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

944

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

950

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

953

954 (7) In reviewing such requests, the **(jurisdiction)** and **(appointed board)** shall
955 consider all technical evaluations, relevant factors, and all standards specified in
956 this and other sections of this ordinance.

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(8) Conditions for Variances:

- (a) A variance shall be issued only when there is:
- (i) a finding of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) 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 ordinance 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 that such costs may be as high as \$25 for each \$100 of insurance coverage provided.

(d) The **(ordinance administrator)** shall maintain the records of all variance actions, both granted and denied, and report them to the Georgia Department of Natural Resources and the Federal Emergency Management Agency 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 the **(jurisdiction)** and **(appointed board)** shall deem necessary for the consideration of the request.

- (10) Upon consideration of the factors listed above and the purposes of this ordinance, the **(jurisdiction)** and the **(appointed board)** may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this ordinance.

- (11) Variances shall not be issued “after the fact.”

997 **Section 2.13 Violations, Enforcement and Penalties**

998
999 Any action or inaction which violates the provisions of this ordinance or the requirements
1000 of an approved stormwater management plan or permit, may be subject to the
1001 enforcement actions outlined in this Section. Any such action or inaction which is
1002 continuous with respect to time is deemed to be a public nuisance and may be abated by
1003 injunctive or other equitable relief. The imposition of any of the penalties described
1004 below shall not prevent such equitable relief.

1005
1006 **A. Notice of Violation**

1007 If the **(jurisdiction)** determines that an applicant or other responsible person has failed to
1008 comply with the terms and conditions of a permit, an approved stormwater management
1009 plan or the provisions of this ordinance, it shall issue a written notice of violation to such
1010 applicant or other responsible person. Where a person is engaged in activity covered by
1011 this ordinance without having first secured a permit therefor, the notice of violation shall
1012 be served on the owner or the responsible person in charge of the activity being
1013 conducted on the site.

1014
1015 The notice of violation shall contain:

- 1016 (1) The name and address of the owner or the applicant or the responsible person;
- 1017 (2) The address or other description of the site upon which the violation is occurring;
- 1018 (3) A statement specifying the nature of the violation;
- 1019 (4) A description of the remedial measures necessary to bring the action or inaction
1020 into compliance with the permit, the stormwater management plan or this
1021 ordinance and the date for the completion of such remedial action;
- 1022 (5) A statement of the penalty or penalties that may be assessed against the person to
1023 whom the notice of violation is directed; and
- 1024 (6) A statement that the determination of violation may be appealed to the
1025 **(jurisdiction)** by filing a written notice of appeal within thirty (30) days after the
1026 notice of violation.

1027 **B. Penalties**

1028
1029 In the event the remedial measures described in the notice of violation have not been
1030 completed by the date set forth for such completion in the notice of violation, any one or
1031 more of the following actions or penalties may be taken or assessed against the person to
1032 whom the notice of violation was directed. Before taking any of the following actions or
1033 imposing any of the following penalties, the **(jurisdiction)** shall first notify the applicant
1034 or other responsible person in writing of its intended action, and shall provide a
1035 reasonable opportunity, of not less than ten (10) days (except, that in the event the
1036 violation constitutes an immediate danger to public health or public safety, 24 hours

1037 notice shall be sufficient) to cure such violation. In the event the applicant or other

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1039 responsible person fails to cure such violation after such notice and cure period, the
1040 **(jurisdiction)** may take any one or more of the following actions or impose any one or
1041 more of the following penalties.

1042

1043 (1) **Stop Work Order** -The **(jurisdiction or local permitting authority)** may issue
1044 a stop work order which shall be served on the applicant or other responsible
1045 person. The stop work order shall remain in effect until the applicant or other
1046 responsible person has taken the remedial measures set forth in the notice of
1047 violation or has otherwise cured the violation or violations described therein,
1048 provided the stop work order may be withdrawn or modified to enable the
1049 applicant or other responsible person to take the necessary remedial measures to
1050 cure such violation or violations.

1051

1052 (2) **Withhold Certificate of Occupancy** - The **(jurisdiction or local permitting**
1053 **authority)** may refuse to issue a certificate of occupancy for the building or other
1054 improvements constructed or being constructed on the site until the applicant or
1055 other responsible person has taken the remedial measures set forth in the notice of
1056 violation or has otherwise cured the violations described therein.

1057

1058 (3) **Suspension, Revocation or Modification of Permit** - The **(jurisdiction or local**
1059 **permitting authority)** may suspend, revoke or modify the permit authorizing the
1060 development project. A suspended, revoked or modified permit may be reinstated
1061 after the applicant or other responsible person has taken the remedial measures set
1062 forth in the notice of violation or has otherwise cured the violations described
1063 therein, provided such permit may be reinstated (upon such conditions as the
1064 **(jurisdiction or local permitting authority)** may deem necessary) to enable the
1065 applicant or other responsible person to take the necessary remedial measures to
1066 cure such violations.

1067

1068 (4) **Civil Penalties** - In the event the applicant or other responsible person fails to
1069 take the remedial measures set forth in the notice of violation or otherwise fails to
1070 cure the violations described therein within ten (10) days, or such greater period
1071 as the **(jurisdiction)** shall deem appropriate (except, that in the event the violation
1072 constitutes an immediate danger to public health or public safety, 24 hours notice
1073 shall be sufficient) after the **(jurisdiction)** has taken one or more of the actions
1074 described above, the **(jurisdiction)** may impose a penalty not to exceed \$1,000
1075 (depending on the severity of the violation) for each day the violation remains
1076 unremedied after receipt of the notice of violation.

1077

1078 (5) **Criminal Penalties** - For intentional and flagrant violations of this ordinance, the
1079 **(jurisdiction)** may issue a citation to the applicant or other responsible person,
1080 requiring such person to appear in **(appropriate municipal, magistrate or**
1081 **recorders)** court to answer charges for such violation. Upon conviction, such
1082 person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60

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days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense. *Requires a 50-foot undisturbed vegetative buffer and 150-foot impervious surface setback on the Chattahoochee and its impoundments and a 35-foot undisturbed vegetative buffer (all measured from the edge of the water) on perennial tributary streams in a Corridor extending 2000 feet from either bank of the river and its impoundments. The Corridor extends from Buford Dam to the downstream limits of the Atlanta region (Douglas and Fulton Counties). Streams in the basin of the Corridor are required to be protected by buffers, but no required width is specified. (Georgia Code 12-5-440 et seq.)*

DNR Part 5 Criteria for Small (under 100 square miles) Water Supply Watersheds

Authorized under Part V of the Georgia Planning Act of 1989, these criteria require 100-foot undisturbed buffers and 150-foot setbacks on all perennial streams within 7 miles upstream of a public water supply reservoir or public water supply intake. Beyond 7 miles, the required buffer is 50 feet and the required setback is 75 feet. Equivalent protection measures can be adopted with approval from Georgia DCA and DNR.

DNR Part 5 Criteria for River Protection

Authorized under the 1991 Mountains and River Corridors Protection Act of 1991, these criteria require a 100-foot buffer along rivers with average annual flows of greater than 400 cfs (excepting the portion of the Chattahoochee referenced above). The buffer is measured from the top of the stream bank.

These examples are partial descriptions of more extensive regulations as of July, 2002. They represent only three of the stricter regulations that already exist.

While the requirements of this ordinance are intended to apply to all streams in (local jurisdiction), special conditions may exist that require greater protection. Nothing in this ordinance should be construed as preventing the establishment of wider and/or more restrictive buffers and setbacks as required under any other existing or future legislation. In addition, nothing in this ordinance should be construed as preventing the establishment of wider buffers for purposes of protecting greenspace, preserving habitat or other goals that may not be specifically mandated by legislation.

SECTION 2.14 ADDITIONAL INFORMATION REQUIREMENTS FOR DEVELOPMENT ON BUFFER ZONE PROPERTIES

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

- 1121 (1) A site plan showing:
1122 (a) The location of all streams on the property;
1123 (b) Limits of required stream buffers and setbacks on the property;
1124 (c) Buffer zone topography with contour lines at no greater than five (5)-foot
1125 contour intervals;
1126 (d) Delineation of forested and open areas in the buffer zone; and,
1127 (e) Detailed plans of all proposed land development in the buffer and of all
1128 proposed impervious cover within the setback;
1129 (2) A description of all proposed land development within the buffer and setback; and,
1130 (3) Any other documentation that the (review and permitting authority) may reasonably
1131 deem necessary for review of the application and to insure that the buffer zone
1132 ordinance is addressed in the approval process.
1133 All buffer and setback areas must be recorded on the final plat of the property following plan
1134 approval.

1135 **SECTION 2.15 RESPONSIBILITY**

1136 Neither the issuance of a development permit nor compliance with the conditions thereof, nor
1137 with the provisions of this ordinance shall relieve any person from any responsibility otherwise
1138 imposed by law for damage to persons or property; nor shall the issuance of any permit
1139 hereunder serve to impose any liability upon (local jurisdiction), its officers or employees, for
1140 injury or damage to persons or property.

1141

1142 **SECTION 2.16 INSPECTION**

1143 The (review and permitting authority) may cause inspections of the work in the buffer or
1144 setback to be made periodically during the course thereof and shall make a final inspection
1145 following completion of the work. The permittee shall assist the (review and permitting
1146 authority) in making such inspections. The (local jurisdiction) shall have the authority to
1147 conduct such investigations as it may reasonably deem necessary to carry out its duties as
1148 prescribed in this ordinance, and for this purpose to enter at reasonable time upon any
1149 property, public or private, for the purpose of investigating and inspecting the sites of any land
1150 development activities within the protection area.

1151

1152 No person shall refuse entry or access to any authorized representative or agent who requests
1153 entry for purposes of inspection, and who presents appropriate credentials, nor shall any
1154 person obstruct, hamper or interfere with any such representative while in the process of
1155 carrying out official duties.

1156

1157 **SECTION 2.17 VIOLATIONS, ENFORCEMENT AND PENALTIES**

1158 Any action or inaction which violates the provisions of this ordinance or the requirements of
1159 an approved site plan or permit may be subject to the enforcement actions outlined in this
1160 Section. Any such action or inaction which is continuous with respect to time is deemed to be
1161 a public nuisance and may be abated by injunctive or other equitable relief. The imposition of

1162 any of the penalties described below shall not prevent such equitable relief.

1163

1164 **A. Notice of Violation**

1165 If the **(review and permitting authority)** determines that an applicant or other responsible
1166 person has failed to comply with the terms and conditions of a permit, an approved site plan or
1167 the provisions of this ordinance, it shall issue a written notice of violation to such applicant or
1168 other responsible person. Where a person is engaged in activity covered by this ordinance
1169 without having first secured the appropriate permit therefor, the notice of violation shall be
1170 served on the owner or the responsible person in charge of the activity being conducted on the
1171 site. The notice of violation shall contain:

1172

- 1173 (1) The name and address of the owner or the applicant or the responsible person;
- 1174 (2) The address or other description of the site upon which the violation is occurring;
- 1175 (3) A statement specifying the nature of the violation;
- 1176 (4) A description of the remedial measures necessary to bring the action or inaction into
1177 compliance with the permit, the approved site plan or this ordinance and the date for
1178 the completion of such remedial action;
- 1179 (5) A statement of the penalty or penalties that may be assessed against the person to
1180 whom the notice of violation is directed; and,
- 1181 (6) A statement that the determination of violation may be appealed to the **(review and**
1182 **permitting authority)** by filing a written notice of appeal within thirty (30) days
1183 after the notice of violation (except that in the event the violation constitutes an immediate
1184 danger to public health or public safety, 24 hours notice shall be sufficient).

1185 **B. Penalties**

1186 In the event the remedial measures described in the notice of violation have not been
1187 completed by the date set forth for such completion in the notice of violation, any one or more
1188 of the following actions or penalties may be taken or assessed against the person to whom the
1189 notice of violation was directed. Before taking any of the following actions or imposing any
1190 of the following penalties, the **(review and permitting authority)** shall first notify the
1191 applicant or other responsible person in writing of its intended action, and shall provide a
1192 reasonable opportunity, of not less than ten days (except that in the event the violation
1193 constitutes an immediate danger to public health or public safety, 24 hours notice shall be
1194 sufficient) to cure such violation. In the event the applicant or other responsible person fails to
1195 cure such violation after such notice and cure period, the **(review and permitting authority)**
1196 may take any one or more of the following actions or impose any one or more of the following
1197 penalties.

1198

- 1199 (1) **Stop Work Order** - The **(review and permitting authority)** may issue a stop work
1200 order which shall be served on the applicant or other responsible person. The stop
1201 work order shall remain in effect until the applicant or other responsible person has
1202 taken the remedial measures set forth in the notice of violation or has otherwise cured
1203 the violation or violations described therein, provided the stop work order may be
1204 withdrawn or modified to enable the applicant or other responsible person to take
1205 necessary remedial measures to cure such violation or violations.
- 1206 (2) **Withhold Certificate of Occupancy** - The **(review and permitting authority)** may

- 1207 refuse to issue a certificate of occupancy for the building or other improvements
 1208 constructed or being constructed on the site until the applicant or other responsible
 1209 person has taken the remedial measures set forth in the notice of violation or has
 1210 otherwise cured the violations described therein.
- 1211 (3) **Suspension, Revocation or Modification of Permit** - The **(review and permitting**
 1212 **authority)** may suspend, revoke or modify the permit authorizing the land
 1213 development project. A suspended, revoked or modified permit may be reinstated after
 1214 the applicant or other responsible person has taken the remedial measures set forth in
 1215 the notice of violation or has otherwise cured the violations described therein, provided
 1216 such permit may be reinstated (upon such conditions as the **(review and permitting**
 1217 **authority)** may deem necessary) to enable the applicant or other responsible person to
 1218 take the necessary remedial measures to cure such violations.
- 1219 (4) **Civil Penalties** - In the event the applicant or other responsible person fails to take the
 1220 remedial measures set forth in the notice of violation or otherwise fails to cure the
 1221 violations described therein within ten days (or such greater period as the **(review and**
 1222 **permitting authority)** shall deem appropriate) (except that in the event the violation
 1223 constitutes an immediate danger to public health or public safety, 24 hours notice shall
 1224 be sufficient) after the **(review and permitting authority)** has taken one or more of
 1225 the actions described above, the **(review and permitting authority)** may impose a
 1226 penalty not to exceed \$1,000 (depending on the severity of the violation) for each day
 1227 the violation remains unremedied after receipt of the notice of violation.
- 1228 (5) **Criminal Penalties** - For intentional and flagrant violations of this ordinance, the
 1229 **(review and permitting authority)** may issue a citation to the applicant or other
 1230 responsible person, requiring such person to appear in **(appropriate municipal,**
 1231 **magistrate or recorders)** court to answer charges for such violation. Upon
 1232 conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment
 1233 for 60 days or both. Each act of violation and each day upon which any violation shall occur
 1234 shall constitute a separate offense.
 1235

1236 **SECTION 2.18. ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW**

1237 **A. Administrative Appeal**

1238 Any person aggrieved by a decision or order of (review and permitting authority), may
 1239 appeal in writing within ___ days after the issuance of such decision or order to the
 1240 (designated official) of (local jurisdiction) and shall be entitled to a hearing before the
 1241 (designated appeals body) of (local jurisdiction) within ___ days of receipt of the written
 1242 appeal.

1244 **B. Judicial Review**

1245 Any person aggrieved by a decision or order of (review and permitting authority), after
 1246 exhausting all administrative remedies, shall have the right to appeal de novo to the court of
 1247 (appropriate jurisdiction).
 1248

1249 **Section 2.** The preamble of this Ordinance shall be considered to be and is hereby
1250 incorporated by reference as if fully set out herein.

1251 **Section 3.** (a) It is hereby declared to be the intent of the Mayor and Council that all
1252 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their
1253 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

1254 (b) It is hereby declared to be the intent of the Mayor and Council that, to the greatest extent
1255 allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Ordinance
1256 is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It
1257 is hereby further declared to be the intent of the Mayor and Council that, to the greatest extent
1258 allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually
1259 dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.


1260 (c) In the event that any phrase, clause, sentence, paragraph, or section of this Ordinance
1261 shall, for any reason whatsoever, be declared invalid, unconstitutional, or otherwise unenforceable
1262 by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of
1263 the Mayor and Council that such invalidity, unconstitutionality, or unenforceability shall, to the
1264 greatest extent allowed by law, not render invalid, unconstitutional, or otherwise unenforceable
1265 any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinance and that,
1266 to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and
1267 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and
1268 effect.

1269 **Section 4.** All ordinances and parts of ordinances in conflict herewith are hereby expressly
1270 repealed.

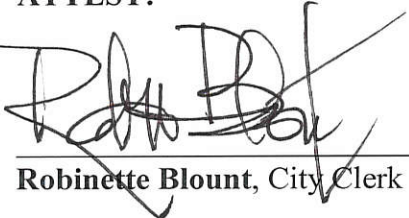
1271 **Section 5.** The effective date of this Ordinance shall be the date of adoption unless
1272 otherwise specified herein.

1273
1274 SO ORDAINED this 15th day of February, 2021.
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1277 CITY OF LITHONIA, GEORGIA
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1281 _____
1282 Shameka Reynolds, Mayor
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1285 ATTEST:

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1287 _____
1288 Robinette Blount, City Clerk
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1292 APPROVED AS TO FORM BY:

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1296 _____
1297 City Attorney
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