

## ORDINANCE 2013-02

**AN ORDINANCE AMENDING THE APALACHICOLA CODE OF ORDINANCES TO REPEAL ORDINANCE 2006-03; TO ADOPT A NEW FLOOD PLAIN MANAGEMENT ORDINANCE; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR APPLICABILITY; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

**WHEREAS**, the Legislature of the State of Florida has, in Chapter 166 Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Apalachicola and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

**WHEREAS**, Apalachicola was accepted for participation in the National Flood Insurance Program on July 18, 1983 and the Apalachicola City Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

**WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

**WHEREAS**, section 553.73(5), Florida Statutes, allows adoption of local administrative amendments to the *Florida Building Code* to implement the National Flood Insurance Program; and

**WHEREAS**, the Apalachicola City Commission is adopting a requirement to limit the size of enclosures below elevated dwellings to no more than 299 square feet for buildings and structures in Coastal High Hazard areas (V Zones) for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), is formatting that requirement to coordinate with the *Florida Building Code*; and

**WHEREAS**, the Apalachicola City Commission is adopting a requirement to require the accumulation of costs of improvements and repairs of buildings, based on issued building permits, over a 10-year period for the purpose of participating in the National Flood Insurance Program's Community Rating System and, pursuant to section 553.73(5), is formatting that requirement to coordinate with the *Florida Building Code*; and

**WHEREAS**, the Apalachicola City Commission has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*.

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, THAT THE FOLLOWING FLOODPLAIN MANAGEMENT REGULATIONS, AND THE FOLLOWING LOCAL ADMINISTRATIVE AMENDMENTS TO THE 2010 *FLORIDA BUILDING CODE*, ARE HEREBY ADOPTED.

## SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

**SECTION 2.** This ordinance specifically repeals and replaces the following ordinance(s) and regulation(s): Ordinance 2006-03, Relating to Development and Building Activity in Flood Hazard and Flood Prone areas in Apalachicola, Florida.}

## CHAPTER 1 ADMINISTRATION

### SECTION 101 GENERAL

**101.1 Title.** These regulations shall be known as the *Floodplain Management Ordinance* of Apalachicola, hereinafter referred to as "this ordinance."

**101.2 Scope.** The provisions of this ordinance shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

**101.3 Intent.** The purposes of this ordinance and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
5. Minimize damage to public and private facilities and utilities;
6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and



8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

**101.4 Coordination with the *Florida Building Code*.** This ordinance is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

**101.5 Warning.** The degree of flood protection required by this ordinance and the *Florida Building Code*, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with this ordinance.

**101.6 Disclaimer of Liability.** This ordinance shall not create liability on the part of City Commissioners of Apalachicola or by any officer or employee thereof for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

## **SECTION 102 APPLICABILITY**

**102.1 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

**102.2 Areas to which this ordinance applies.** This ordinance shall apply to all flood hazard areas within Apalachicola, as established in Section 102.3 of this ordinance.

**102.3 Basis for establishing flood hazard areas.** The Flood Insurance Study for Franklin County, Florida and Incorporated Areas dated June 17, 2002, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the Apalachicola Planning & Building Department.

**102.3.1 Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 105 of this ordinance the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this ordinance and, as applicable, the requirements of the *Florida Building Code*.

2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

**102.4 Other laws.** The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

**102.5 Abrogation and greater restrictions.** This ordinance supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the *Florida Building Code*. In the event of a conflict between this ordinance and any other ordinance, the more restrictive shall govern. This ordinance shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this ordinance.

**102.6 Interpretation.** In the interpretation and application of this ordinance, all provisions shall be:

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

## **SECTION 103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

**103.1 Designation.** The Zoning Administrator is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**103.2 General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this ordinance. The Floodplain Administrator shall have the authority to render interpretations of this ordinance consistent with the intent and purpose of this ordinance and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this ordinance without the granting of a variance pursuant to Section 107 of this ordinance.

**103.3 Applications and permits.** The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

1. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
2. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this ordinance;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information;
5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;



6. Review applications to determine whether proposed development will be reasonably safe from flooding;
7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this ordinance is demonstrated, or disapprove the same in the event of noncompliance; and
8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this ordinance.

**103.4 Substantial improvement and substantial damage determinations.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this ordinance is required.

**103.5 Modifications of the strict application of the requirements of the *Florida Building Code*.** The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 107 of this ordinance.

**103.6 Notices and orders.** The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this ordinance.

**103.7 Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 106 of this ordinance for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building*

*Code*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**103.8 Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.4 of this ordinance;
2. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
3. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
4. Review required design certifications and documentation of elevations specified by this ordinance and the *Florida Building Code* and this ordinance to determine that such certifications and documentations are complete;
5. Notify the Federal Emergency Management Agency when the corporate boundaries of **Apalachicola** are modified; and
6. Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

**103.9 Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the Franklin County Planning and Building Department, 34 Forbes Street, Suite 1, Apalachicola, Florida.

## **SECTION 104 PERMITS**

**104.1 Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who



intends to undertake any development activity within the scope of this ordinance, including buildings, structures and facilities exempt from the *Florida Building Code*, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this ordinance and all other applicable codes and regulations has been satisfied.

**104.2 Floodplain development permits or approvals.** Floodplain development permits or approvals shall be issued pursuant to this ordinance for any development activities not subject to the requirements of the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**104.2.1 Buildings, structures and facilities exempt from the *Florida Building Code*.**

Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code* and any further exemptions provided by law, which are subject to the requirements of this ordinance:

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
3. Temporary buildings or sheds used exclusively for construction purposes.
4. Mobile or modular structures used as temporary offices.
5. Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
7. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
8. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
9. Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

**104.3 Application for a permit or approval.** To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

1. Identify and describe the development to be covered by the permit or approval.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively

locate the site.

3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan or construction documents as specified in Section 105 of this ordinance.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

**104.4 Validity of permit or approval.** The issuance of a floodplain development permit or approval pursuant to this ordinance shall not be construed to be a permit for, or approval of, any violation of this ordinance, the *Florida Building Codes*, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**104.5 Expiration.** A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**104.6 Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this ordinance or any other ordinance, regulation or requirement of this community.

**104.7 Other permits required.** Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

1. The Northwest Florida Water Management District; section 373.036, F.S.
2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
3. Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.141, F.S.
4. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
5. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
6. Federal permits and approvals.



## SECTION 105 SITE PLANS AND CONSTRUCTION DOCUMENTS

**105.1 Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
2. Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2(2) or (3) of this ordinance.
3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(1) of this ordinance.
4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
7. Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.
8. Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
9. Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this ordinance.

**105.2 Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
2. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.

3. Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
  - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
  - b. Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

**105.3 Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 105.4 of this ordinance and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 105.4 of this ordinance.
4. For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

**105.4 Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the



applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

## SECTION 106 INSPECTIONS

**106.1 General.** Development for which a floodplain development permit or approval is required shall be subject to inspection.

**106.1.1 Development other than buildings and structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

**106.1.2 Buildings, structures and facilities exempt from the *Florida Building Code*.** The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this ordinance and the conditions of issued floodplain development permits or approvals.

**106.1.2.1 Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 105.2(3)(b) of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**106.1.2.2 Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 106.1.2.1 of this ordinance.

**106.1.3 Manufactured homes.** The **Building Official** shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this ordinance and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the **{Floodplain Administrator or Building Official}**.

## SECTION 107 VARIANCES AND APPEALS

**107.1 General.** The **APALACHICOLA CITY COMMISSION** shall hear and decide on requests for appeals and requests for variances from the strict application of this ordinance. Pursuant to

section 553.73(5), F.S., the Apalachicola City Commission shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building Code, Building*.

**107.2 Appeals.** The Apalachicola City Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this ordinance. Any person aggrieved by the decision of the Apalachicola City Commission may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**107.3 Limitations on authority to grant variances.** The Apalachicola City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 107.6 of this ordinance, the conditions of issuance set forth in Section 107.7 of this ordinance, and the comments and recommendations of the Floodplain Administrator and the Building Official. The Apalachicola City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this ordinance.

**107.3.1 Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 105.3 of this ordinance.

**107.4 Historic buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

**107.5 Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this ordinance, provided the variance meets the requirements of Section 107.3.1, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**107.6 Considerations for issuance of variances.** In reviewing requests for variances, the Apalachicola City Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this ordinance, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;



4. The importance of the services provided by the proposed development to the community;
5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**107.7 Conditions for issuance of variances.** Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this ordinance or the required elevation standards;
2. Determination by the Apalachicola City Commission that:
  - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

## SECTION 108 VIOLATIONS

**108.1 Violations.** Any development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this ordinance, shall be deemed a violation of this ordinance. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this ordinance or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

**108.2 Authority.** For development that is not within the scope of the *Florida Building Code* but that is regulated by this ordinance and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

**108.3 Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law .

## CHAPTER 2 DEFINITIONS

### SECTION 201 GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this ordinance, have the meanings shown in this section.

**201.2 Terms defined in the *Florida Building Code*.** Where terms are not defined in this ordinance and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

**201.3 Terms not defined.** Where terms are not defined in this ordinance or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

### SECTION 202 DEFINITIONS

**Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

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

**ASCE 24.** A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

**Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the