

ORDINANCE NO. 7574

AN ORDINANCE TO AMEND THE AUGUSTA, GEORGIA CODE, TITLE 8, CHAPTER ONE, FLOOD DAMAGE PREVENTION ORDINANCE, IN ITS ENTIRETY.

WHEREAS, it is the desire of the Augusta, Georgia Commission to amend the Augusta, Georgia Flood Damage Prevention Ordinance to bring the Ordinance in alignment with the State of Georgia Model Flood Damage Prevention Ordinance and in order to continue to remain in compliance with the minimum standards of the National Flood Insurance Program (NFIP), and

WHEREAS, based on the foregoing, the Augusta, Georgia Commission recommends amending Title 8, Chapter One, of the Augusta, Georgia Code - The Augusta, Georgia Flood Damage Prevention Ordinance in its entirety.

THE AUGUSTA, GEORGIA BOARD OF COMMISSIONERS ordains as follows:

SECTION 1. Augusta Georgia Code, Title 8, Chapter One, as set forth in the Augusta, Georgia Code is hereby amended by striking Title 8, Chapter One in its entirety and inserting in lieu thereof the following language:

TITLE EIGHT
PLANNING & ZONING

CHAPTER 1

FLOOD DAMAGE PREVENTION

ARTICLE 1

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

§ 8-1-1. STATUTORY AUTHORIZATION.

Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Augusta Commission of Augusta, Georgia does ordain the provisions of this Chapter:

§ 8-1-2. FINDINGS OF FACT.

- (a) The flood hazard areas of Augusta, Georgia are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

§ 8-1-3. STATEMENT OF PURPOSE.

It is the purpose of this Chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (a) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (b) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (c) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (d) control filling, grading, dredging and other development which may increase flood damage or erosion, and;
- (e) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

§ 8-1-4. **OBJECTIVES.**

The objectives of this Chapter are:

- (a) to protect human life and health;
- (b) to minimize expenditure of public money for costly flood control projects;
- (c) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) to minimize prolonged business interruptions;
- (e) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (f) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- (g) to insure that potential home buyers are notified that property is in a flood area.

§ 8-1-5. -- 8-1-9. **RESERVED.**

ARTICLE 2

DEFINITIONS

§ 8-1-10. **SPECIFIC DEFINITIONS.**

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

- (a) **Addition (to an existing building).** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by an independent perimeter load-bearing wall shall be considered "New Construction".
- (b) **Appeal.** A request for a review of the Director's interpretation of any provision of this Chapter or a request for a variance.

- (c) **Area of shallow flooding.** A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- (d) **Area of Special Flood Hazard.** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 3, Section 8-1-17.
- (e) **Base flood.** The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- (f) **Base Flood Elevation (BFE).** The elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.
- (g) **Basement.** That portion of a building having its floor subgrade (below ground level) on all sides.
- (h) **Building.** Any structure built for support, shelter, or enclosure for any occupancy or storage.
- (i) **City Engineer.** The City Engineer for Augusta, GA.
- (j) **Commission.** The Augusta Commission
- (k) **Critical Facilities.** Any public or private facility, which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Critical facilities include:
 - (1) structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
 - (2) hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
 - (3) emergency operation centers or data storage center which contain records or services that may become lost or inoperative during flood and storm events; and
 - (4) generating plants, and other principal points of utility lines.
- (l) **Development.** Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, and storage of materials or equipment.
- (m) **Director.** The Director of the Augusta Planning & Development Department.
- (n) **Elevated building.** A non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter

walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

- (o) **Existing Construction.** Any structure for which the "start of construction" commenced before February 15, 1978 for the City of Augusta prior to consolidation and March 4, 1980 for the unincorporated areas of Richmond County prior to consolidation - the effective date of the FIRST Floodplain Management Ordinance adopted by Augusta, GA as a basis for Augusta's participation in the National Flood Insurance Program (NFIP).
- (p) **Existing manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before February 15, 1978 for the City of Augusta prior to consolidation and March 4, 1980 for the unincorporated areas of Richmond County prior to consolidation - the effective date of the FIRST Floodplain Management Ordinance adopted by Augusta as a basis for Augusta's participation in the National Flood Insurance Program (NFIP).
- (q) **Expansion to an existing manufactured home park or subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.
- (r) **Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) the overflow of inland or tidal waters; or
 - (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- (s) **Flood Hazard Boundary Map (FHBM).** An official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of Special Flood Hazard have been defined as Zone A.
- (t) **Flood Insurance Rate Map (FIRM).** An official map of a community, issued by the Federal Insurance Administration, delineating the areas of Special Flood Hazard and/or risk premium zones applicable to the community.
- (u) **Flood Insurance Study.** The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.
- (v) **Floodplain.** Any land area susceptible to flooding.
- (w) **Floodproofing.** Any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (x) **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

- (y) **Floodway fringe, lower.** The portion of the area of Special Flood Hazard that is located between the limit of the floodway and a line connecting all points half the distance between the floodway and the limit of the area of Special Flood Hazard.
- (z) **Floodway fringe, upper.** The portion of the area of Special Flood Hazard that is located between the lower floodway fringe and the boundary of the area of Special Flood Hazard.
- (aa) **Floor.** The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
- (bb) **Functionally dependent facility.** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacturing, sales or service facilities.
- (cc) **Highest adjacent grade.** The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.
- (dd) **Historic Structure.** Any structure that is:
 - (1) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (4) individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior; or
 - b) directly by the Secretary of the Interior in states without approved programs.
- (ee) **Lowest floor.** The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this Code.
- (ff) **Manufactured home.** A building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and

similar transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

- (gg) **Mean Sea Level.** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).
- (hh) **National Geodetic Vertical Datum (NGVD).** As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (ii) **New construction.** (for purposes of determining insurance rates and for floodplain management purposes) ANY structure (see definition) for which the "start of construction" commenced after February 15, 1978 for the City of Augusta prior to consolidation and March 4, 1980 for the unincorporated areas of Richmond County prior to consolidation - the effective date of the FIRST Floodplain Management Ordinance adopted by Augusta, GA as a basis for Augusta's participation in the National Flood Insurance Program (NFIP) - and includes any subsequent improvements to such structure.
- (jj) **New manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after February 15, 1978 for the City of Augusta prior to consolidation and March 4, 1980 for the unincorporated areas of Richmond County prior to consolidation - the effective date of the FIRST Floodplain Management Ordinance adopted by Augusta, GA as a basis for Augusta's participation in the National Flood Insurance Program (NFIP).
- (kk) **Recreational vehicle** means a vehicle which is:
 - (1) built on a single chassis;
 - (2) 400 square feet or less when measured at the largest horizontal projection;
 - (3) designed to be self-propelled or permanently towable by a light duty truck; and
 - (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (ll) **Start of construction.** The date the Development Permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within one hundred and eighty (180) days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (NOTE: Accessory structures are NOT exempt from any ordinance requirements) For a substantial improvement, the actual start of construction means the

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

- (mm) **Structure.** A walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.
- (nn) **Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
- (oo) **Substantial improvement.** Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent of the market value of the structure prior to the improvement. The market value of the building should be:
 - (1) the appraised value of the structure prior to the start of the initial repair or improvement; or
 - (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-identified by the Code Enforcement Official, and not solely triggered by an improvement or repair project.

- (pp) **Substantially improved existing manufactured home parks or subdivisions.** Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
- (qq) **Variance.** A grant of relief from the requirements of this Chapter which permits construction in a manner otherwise prohibited by this Chapter.
- (rr) **Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

§ 8-1-11. -- 8-1-15. **RESERVED.**

ARTICLE 3
GENERAL PROVISIONS

§ 8-1-16. **LANDS TO WHICH THIS CHAPTER APPLIES.**

This Chapter shall apply to all areas of Special Flood Hazard within the jurisdiction of Augusta, Georgia.

§ 8-1-17. **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

The areas of Special Flood Hazard, identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS), dated February 15, 1978 for the City of Augusta prior to consolidation and March 4, 1980 for the unincorporated areas of Richmond County prior to consolidation, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this Chapter.

Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.

The Repository for public inspection of the Flood Insurance Study (FIS), accompanying maps and other supporting data is located at 535 Telfair Street, Suite 300, Augusta, GA.

§ 8-1-18. **ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be required, in conformance with the provisions of this Chapter, PRIOR to the commencement of any development activities.

§ 8-1-19. **COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this Chapter and other applicable regulations.

§ 8-1-20. **ABROGATION AND GREATER RESTRICTIONS.**

This Chapter is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this Chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

§ 8-1-21. **INTERPRETATION.**

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

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the Governing Body, and;
- (c) deemed neither to limit nor repeal any other powers granted under state statutes.

§ 8-1-22. **WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of Augusta, GA, the Commission, and/or the Augusta Planning & Development Department or by any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

§ 8-1-23. ENFORCEMENT AND PENALTIES FOR VIOLATION

Violation of the provisions of this Chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall be reported to the City Engineer. Once a violation is evident, the City Engineer, acting on behalf of the Commission, shall be empowered to notify the owner in writing of the apparent violation of this Chapter. The written notice shall direct the owner to cease the development activity until such time as the requirements and procedures of this Chapter have been met. Upon failure of the owner to comply with this notice, the City Engineer shall notify the City Attorney of the violation; and the City Attorney shall immediately begin legal procedures in the Superior Court of Richmond County to prevent, enjoin, abate or remove such violations in addition to injunctive relief. All persons, firms or corporations failing to comply with the mandatory provisions hereof or doing any act prohibited hereby shall be guilty of an offense and, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than sixty (60) days, or both, and, in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing contained herein shall prevent the Commission from taking such other lawful action as is necessary to prevent or remedy any violation.

§ 8-1-24 - - 8-1-28. RESERVED.

ARTICLE 4

ADMINISTRATION

§ 8-1-29. DESIGNATION OF DIRECTOR.

The Director of the Augusta Planning & Development Department is hereby appointed to administer and implement the provisions of this Chapter.

§ 8-1-30. PERMIT PROCEDURES.

Application for a Development Permit shall be made to the Director on forms furnished by the community PRIOR to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following information is required:

(a) Application Stage -

- (1) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
- (2) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
- (3) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 5, Section 8-1-44(b);
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;

(b) Construction Stage -

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the regulatory floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The Director shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a Stop-Work Order for the project.

§ 8-1-31. DUTIES AND RESPONSIBILITIES OF THE DIRECTOR

Duties of the Director shall include, but shall not be limited to:

- (a) Review all Development Permits to assure that the permit requirements of this Chapter have been satisfied;
- (b) Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- (c) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (d) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 3, Section 8-1-17, then the Director shall obtain, review and reasonably