ORDINANCE

(AS CORRECTED)

CITY OF NEW ORLEANS

CITY HALL: April 7, 2016

CALENDAR NO. 31,261

NO. 26906 MAYOR COUNCIL SERIES

BY: COUNCILMEMBERS WILLIAMS, HEAD, GUIDRY, CANTRELL, RAMSEY, BROSSETT AND GRAY (BY REQUEST)

AN ORDINANCE to amend and reordain Sections 78-1 through 78-139 of the Code of the City of New Orleans, to establish regulations and requirements for flood damage protection in compliance with the National Flood Insurance Program; to establish fines for failure to comply with the provisions of this Chapter; and to otherwise provide with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That Sections 78-1 through 78-139 of the Code of Ordinances of the City of New Orleans are hereby amended and reordained to read as follows:

"**Chapter 78 – Floods.**

Article I. Generally

Sec. 78-1. – Drains, etc., not to be obstructed.

No person shall impede or obstruct the flow of water in any gutter, canal, pipe or other conduit used for draining within the limits of the city.

Secs. 78-2 – 78-50. – Reserved.

Article II. Flood Damage Prevention.

Division 1. – Floodplain Regulation.

Sec. 78-51. – Statutory Authorization.

The provisions of this article are adopted pursuant to the authority granted through R.S. 38:84 which allows municipalities of the state to adopt such ordinances, rules, and regulations as are necessary to comply with the requirements of the National Flood Insurance Act of 1968, and the regulations adopted pursuant thereto by the Federal Emergency Management Agency (FEMA).

Sec. 78-52. – Finding of Fact.

(a) The flood hazard areas of Orleans Parish are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazards to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

Sec. 78-53. – Statement of Purpose.

(a) The principal purpose of the regulations in this article is to prescribe minimum requirements for land use and control measures for flood prone areas in the city, as determined by FEMA. These regulations are based upon relevant technical storm data specific to Orleans Parish, as developed by the U.S. Army Corps of Engineers and the National Academy of Sciences. These measures must be applied uniformly throughout the community to all privately and publicly owned land within flood prone areas, based upon standards set forth in these regulations, as prescribed by FEMA.

(b) Official flood maps entitled Digital Flood Insurance Rate Maps (D-FIRM) for Orleans Parish, Louisiana (Community No. 225203, Panel Numbers 22071C0045F, 22071C0075F, 22071C0100F, 22071C0105F, 22071C0110F, 22071C0113F, 22071C0114F, 22071C0115F, 22071C0118F, 22071C0119F, 22071C0120F, 22071C0126F, 22071C0127F, 22071C0128F, 22071C0129F, 22071C0135F, 22071C0136F, 22071C0137F, 22071C0138F, 22071C0139F, 22071C0141F, 22071C0142F. 22071C0143F, 22071C0144F, 22071C0175F, 22071C0200F, 22071C0207F, 22071C0209F, 22071C0217F, 22071C0226F, 22071C0227F, 22071C0228F, 22071C0229F, 22071C0231F, 22071C0232F, 22071C0233F, 22071C0234F, 22071C0236F, 22071C0237F, 22071C0241F, 22071C0242F, 22071C0244F, 22071C0255F, 22071C0260F, 22071C0261F, 22071C0262F, 22071C0263F, 22071C0264F, 22071C0266F, 22071C0268F, 22071C0269F, 22071C0330F, 22071C0360F), dated December 1, 2014, and as may be amended by Letters of Map Amendment or Letters of Map Revision subsequently issued by FEMA, are hereby adopted by the City of New Orleans and are on file with the clerk of council and the department of safety and permits.

Sec. 78-54. – Methods of Reducing Losses.

(a) In order to accomplish its purposes, this article uses the following methods:

(1) Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or cause excessive increase in flood heights or velocities;

(2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Controls filling, grading, dredging and other development which may increase flood damage; and

(5) Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(b) The city's participation in the FEMA sponsored Community Rating System (CRS) Program provides incentives for activities that reduce flood losses and support the sale of flood insurance. This program will result in flood premium reductions for city residents. The department of safety and permits is designated as the city's lead agency or CRS coordinator to the program. Part of the program's goal is to actively involve city departments and associated agencies in the development, advertising, and enforcement of any activity that would reduce property damage and residential liability in the event of flooding. Participation in the CRS Program includes annual review and revision of the floodplain management plan for the city, which may include a public hearing process, citywide mail-outs, and other forms of public advertisement. The plan will be made available to the public and interested parties through the city public library system, city planning commission, department of safety and permits, and the office of the clerk of council.

Sec. 78-55. – Definitions.

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

(1) *Appeal* means a request for a review of the director's interpretation of any provision of this article or a request for a variance.

(2) *Base flood* means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

(3) *Base Flood Elevation (BFE)* means the elevation of surface water resulting form a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE and VE.

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

(5) *Benchmark elevations* means the January 1986 adjustment of the 1985 Vertical Control Survey of Orleans Parish, Louisiana, published by National Geodetic Survey and/or any subsequent adjustments published by National Geodetic Survey and recognized by FEMA.

(6) *Breakaway wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(7) *Coastal high-hazard area* means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

(8) *Critical feature* means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

(9) *Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

(10) *Director* means the director of the department of safety and permits.

(11) *Elevated Building* means a building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundation walls are not an acceptable means of elevating buildings in V and VE zones.

(12) *Existing construction* means, for the purposes of determining flood insurance rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

(13) *Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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

(15) *Federal insurance administrator* means the individual to whom the director of FEMA has delegated the administration of the National Flood Insurance Program.

(16) *Flood* means a general and temporary condition of partial or complete inundation of two (2) or more acres of normally dry land area or of two (2) or more properties (at least one (1) of which is the policyholder's property) from: 1) overflow of inland or tidal waters; 2) unusual and rapid accumulation of runoff of surface waters from any source; 3) mudflow; or 4) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood, as here defined.

(17) *Flood insurance rate map (FIRM)* means an official map of a community on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(18) *Flooding insurance study* is the official report provided by FEMA. The report contains flood profiles, water surface elevation of the base flood, and the flood boundary-floodway map.

(19) *Floodplain* or *floodprone area* means any land area susceptible to being inundated by water from any source (see definition of "flood").

(20) *Floodplain management program* means the operation of all overall programs of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and land use and control measures.

(21) *Flood-proofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

(22) *Flood protection system* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

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

(24) *Highest existing adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(25) *Historic building* means any building which is:

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

ii. 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 of the Interior to qualify as a registered historic district; or,

iii. Individually listed in a state inventory of historic places in states with preservation programs that have been approved by the Secretary of the Interior; or,

iv. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior; or,

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

(26) *Land use and control measures* means zoning ordinances, subdivision regulations, building codes, health regulations, and other applications and extensions of the

normal police power, to provide standards and effective enforcement provisions for prudent use and occupancy of flood prone and mudslide areas.

(27) *Levee* means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(28) *Levee system* means a flood protection system which consists of a levee, or levees, and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(29) *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 the applicable non-elevation design requirement of section 60.3 of the NFIP regulations.

(30) *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *manufactured home* does not include *recreational vehicles*.

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

(32) *Mean sea level* means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(33) *National Flood Insurance Program* means the program of flood insurance protection authorized pursuant to 42 U.S.C. 4001 through 4128.

(34) *New construction* means buildings for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map (FIRM) or after December 31, 1974, whichever is later, including any subsequent improvements.

(35) *New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, as a minimum, the installation of utilities, construction of streets, and either final site grading or pouring of the concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

(36) *One Hundred Year (100-year) flood (storm)* see "*base flood.*"

(37) *One Percent Annual Chance Flood* means a flood of the magnitude that has a 1 percent chance of being equaled or exceeded in any given year. Often referred to as the "100-year" flood or base flood, the 1 percent annual chance flood is the standard most commonly used for floodplain management and regulatory purposes in the United States.

(38) *Program deficiency* means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplains management regulations or of the standards in section 60.3, 60.4, 60.5, or 60.6 of the NFIP regulations.

(39) *Recreational vehicle* means a vehicle which is:

i. Built on a single chassis;

ii. 400 square feet or less when measured at the largest horizontal projections;

iii. Designed to be self-propelled or permanently towable by a light duty truck; and

iv. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(40) *Remedy a violation* means to bring the structure or other development into compliance with state or local floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected developments from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

(41) *Residential structure* means a building or portion thereof, designed or used exclusively for residential occupancy but not including trailers, hotels, motels or motor lodges.

(42) *Special Flood Hazard Area (SFHA)* means an area having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) as zone A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/AO, AR/A1-A30, V1-V30, VE, or V. For the purpose of determining Community Rating System (CRS) premium discounts, all AR and A99 zones are treated as non-SFHAs.

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

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

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

(46) *Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

i. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,

ii. Any alteration of a historic building provided that the alteration will not preclude the structure's continued designation as a historic structure.

(47) *V zone:* See *Coastal high-hazard area.*

(48) *Variance* is a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements see section 60.6 of the NFIP Regulations.)

(49) *Violation* means 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, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the NFIP Regulations is presumed to be in violation until such time as that documentation is provided.

(50) *Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

(51) Any terms not defined herein shall be interpreted in accordance with 44 C.F.R. §59.1.

Sec. 78-56. – Application of Article.

The provisions of this Article shall apply to all properties within the boundaries of Orleans Parish.

Sec. 78-57. – Floodplain Management Programs in Adjoining Parishes.

Individual floodplain management programs in Jefferson, St. Bernard, Plaquemines, and St. Tammany Parishes shall be given consideration in an approach to overall flood management in the metropolitan New Orleans area and the department of safety and permits will notify these parishes of any watercourse alterations or relocations.

Sec. 78-58. – Basis for Establishing Special Flood Hazard Areas.

The Special Flood Hazard Areas identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study for Orleans Parish," dated December 1, 2014, as amended

by FEMA, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary-Floodway Maps (FBFMs), and any revisions thereto are adopted by reference and declared to be a part of this article.

Sec. 78-59. – Establishment of Building Permit.

A building permit, issued in accordance with the standards of the Chapter 26 of this Code, shall be required to ensure conformance with the provisions of this Article.

Sec. 78-60. – Compliance.

No structure or land shall be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

Sec. 78-61. – Abrogation, Greater Restrictions, and Severability.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another article conflict or overlap, whichever article imposes the more stringent restrictions shall prevail. If any section, clause, sentence, or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this article.

Sec. 78-62. – Interpretation.

(a) In the interpretation and application of this article, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the city council; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 78-63. – Warning and Disclaimer of Liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

Sec. 78-64. – Status of Conflicting Ordinances.

In any circumstance where the standards of this Article conflict with other ordinances of the City of New Orleans, the more restrictive of the two shall apply.

Sec. 78-65. – Designation of Administrator.

The director of the department of safety and permits is hereby designated to administer and implement the provisions of this Article and other appropriate sections of Chapter 44 of the Code of Federal Regulations relative to the National Flood Insurance Program, which pertain to floodplain management.

Sec. 78-66. – Duties and Responsibilities of Director.

(a) The duties and responsibilities of the director shall include, but not be limited to, the following:

(1) Maintain and have open for public inspection all records pertaining to the provisions of this article.

(2) Review permit applications to determine whether proposed building sites will be reasonably safe from flooding.

(3) Review and approve or deny all applications for development permits required by adoption of this Article.

(4) Review permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies, agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(6) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(b) When base flood elevation data has not been provided in accordance with Section 78-58, the director shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, in order to administer the provisions of this article.

(c) When a regulatory floodway has not been designated, the director must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the

water surface elevation of the base flood more than one (1) foot at any point within the community.

Sec. 78-67. – Penalties for Violations.

The owner or general agent of a building or premises where a violation of any provision of this Article has been committed or exists, or the general agent, architect, builder, contractor, or any other person who assists committing a violation of this Article, shall be subject to the fines and penalties prescribed in Chapter 6 of this code.

Secs. 78-68 – 78-75. – Reserved.

Division 2 – Permits.

Sec. 78-76. – Building Permit, Required.

(a) It shall be unlawful to proceed with any new construction, substantial improvement, repair or renovation of a building within the city without having previously obtained a permit from the director of the department of safety and permits pursuant to the standards of this article and Chapter 26 of this code.

(b) It shall be the duty of the department of police to see that such work requiring a permit is authorized and to report the absence of a permit to the director.

(c) All work must comply with the building code as provided in Chapter 26 of this code, as well as this article, and shall be subject to inspection whether a permit is required or not, at the discretion of the director.

Sec. 78-77. – Same – Application Procedures.

(a) Application for a building permit shall be presented to the director in accordance with the standards set forth in Section 105.3 of the city's amendments to the International

Building Code, as provided n Section 26-14 of this code. Additionally, the following is required:

(1) A certificate of elevation shall be prepared by a civil engineer or land surveyor licensed to practice in the state, which certifies that all requirements contained herein have been complied with, and holds the city harmless from any errors and omissions if such exist in the elevation certificate;

(2) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;

(3) Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;

(4) A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of section 78-122(2);

(5) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(b) The director shall maintain a record of the foregoing in accordance with this article.

(c) Approval or denial of a building permit by the director shall be based on all of the provisions of this article and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The danger that materials may be swept onto other lands to the injury of others;

(4) The compatibility of the proposed use with existing and anticipated development relative to potential impacts to the floodplain;

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

(7) The expected heights, velocity, duration, rate of rise and sediment, transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

(8) The necessity to the facility of a waterfront location, where applicable;

(9) The availability of alternative locations not subject to flooding or erosion damage, for the proposed use;

(10) The relationship of the proposed use to the comprehensive plan for that area.

Sec. 78-78. – Development Permit.

It shall be unlawful to proceed with any new development within the city without having previously obtained a permit from the director of safety and permits, properly issued in accordance with this code.

Sec. 78-79. – Other Permits.

Prior to securing a local permit for development as defined in this article, it shall be the responsibility of the applicant to secure all necessary permits from those governmental agencies for which approval is required by federal or state law.

Sec. 78-80. – First Floor Elevation Required on Permits.

All building permits issued for new construction or substantial improvement must have imprinted upon them the required mean sea level elevation of the lowest floor (including basement) based on the provisions of Section 78-81 of this Article.

Sec. 78-81. – Minimum Elevation Required.

(a) The lowest floor elevation of new residential and non-residential construction and substantial improvements must, at a minimum, be elevated to one (1) foot above the BFE as determined by the FIRM adopted by this article, or three (3) feet above the highest adjacent curb (in the absence of curbing, three (3) feet above the crown of the highest adjacent roadway), whichever is higher.

(b) In cases where flood-proofing is utilized for non-residential new construction or substantial improvements, proper certificates from a registered professional engineer or licensed architect shall be obtained and maintained by the director. Such structures utilizing flood-proofing measures must be flood-proofed to a minimum of one (1) foot above the requirement established above.

(c) Historic structures within the jurisdiction of the Historic District Landmarks Commission, Central Business District Historic District Landmarks Commission, Vieux Carré Commission, or which are certified as contributing elements of a National Register district, or property that is included in the definition of "historic structure" under the NFIP, shall be permitted to build to either the base flood elevation as determined by the FIRM adopted by this article, or eighteen (18) inches above highest adjacent grade, whichever is higher.

Sec. 78-82. – Review of Permits for Construction.

(a) It shall be the responsibility of the director of the department of safety and permits to ensure that:

(1) The lowest-floor elevation of new or substantially improved residential structures be placed at or above the required minimum elevation as established by this article.

(2) The lowest-floor elevation of new or substantially improved non-residential structures be placed either at or above the required minimum elevation as established by this article; or, if below the required minimum elevation, that together with its attendant utility and sanitary facilities, be flood-proofed in accordance with the minimum requirements provided by this article.

(3) New construction or substantial improvements within special flood hazard areas be protected against flood damage, be anchored in accordance with the building code of the City of New Orleans to prevent flotation, collapse, or lateral movement of the structure, utilize construction materials and utility equipment that is resistant to flood damage, and utilize construction methods and practices to minimize flood damage.

Secs. 78-83 – 78-100. – Reserved.

Division 3 – Waiver of Regulations.

Sec. 78-101. – Function of the Board of Building Standards and Appeals.

The Board of Building Standards and Appeals of the City of New Orleans shall hear petitions for waivers of the regulations of this article or appeals of determinations of the director in the enforcement or administration of this article.

Sec. 78-102. – Standards and Procedures for Waivers and Appeals.

(a) Variances

(1) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

(2) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in section 78-77 have met the technical justification required for issuing the variance increases.

(3) Upon consideration of the factors noted above and the intent of this article, the BBSA may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.

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

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

(6) Prerequisites for granting variances:

i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(7) Variances shall only be issued upon:

i. Showing a good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; 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, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(8) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(9) Variances may be issued by the BBSA for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

i. The criteria outlined in this section are met; and,

ii. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(b) Appeals:

(1) The BBSA shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the director in the enforcement or administration of this article.

(c) Any person or persons aggrieved by the decision of the BBSA may appeal such decision to a court of competent jurisdiction.

(d) The director shall maintain a record of all actions involving variances and appeals and shall report both to FEMA upon request.

Secs. 78-103 – 78-120. – Reserved.

Division 4. – Flood Hazard Reduction.

Sec. 78-121. – General Standards.

(a) In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent the flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and

other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

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

(6) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate the infiltration of floodwaters into the system or discharge from the system into floodwaters.

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 78-122. – Specific Standards.

(a) In all areas within Orleans Parish, the following provisions are required to ensure the required minimum elevation as established by this article are met:

(1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to the required minimum elevation as established by this article. A registered professional engineer, architect, or land surveyor shall submit a certification to the director that the standard of this subsection is satisfied prior to issuance of a certificate of occupancy.

(2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the required minimum elevation or, together with attendant utility and sanitary facilities, be designed so that any area below the required minimum elevation of this article is flood-

proofed, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection prior to issuance of a certificate of occupancy. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the director.

(3) *Enclosure.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Sec. 78-123. – Manufactured Homes – Compliance with Regulations.

(a) The director shall require that the following provisions are complied with in the construction and operation of new manufactured home parks:

(1) Over-the-top ties shall be provided at or near each of the four corners of a manufactured home with two additional ties per side. Frame ties shall be provided at each corner of a manufactured home, with five additional ties per side at intermediate points; provided, however, that a manufactured home less than 50 feet in length shall require but four additional ties per side. All components of the anchoring system for a manufactured home shall be capable of carrying a force of 4,800 pounds. Any additions to a manufactured home shall be similarly anchored.

(2) Should pile foundations be utilized for trailers, the design shall be submitted over the signature of a state-registered civil engineer or a state-registered architect.

(3) These regulations shall apply in all zoning districts where manufactured homes are classified as permitted or conditional uses, or enjoy legal, non-conforming status under the provisions of the comprehensive zoning ordinance of the City of New Orleans.

(b) All manufactured homes to be placed within zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(c) All manufactured homes shall be in compliance with section 78-122.

(d) All manufactured homes to be placed or substantially improved within zone AE on the community's FIRM shall be elevated on a permanent foundation such that the elevation of the structural "I" beam is at or above the required minimum elevation as established by this article; and shall be securely anchored to an adequately anchored foundation system in accordance with the provision of this section.

Sec. 78-124. – Same – Standards for Placement and Elevation.

It shall be required in manufactured home parks that stands or lots be elevated on compacted fill or on pilings so that the elevation of the structural "I" beam is at or above the required minimum elevation as established by this Article, adequate surface drainage and access for a hauler are provided and that in the instance of elevation on pilings, lots are large enough to permit steps. Piling foundations are to be placed in stable soil no more than ten feet apart, and reinforcement is to be provided for pilings more than six feet above the ground level.

Sec. 78-125. – Same – Restricted in Coastal High-Hazard Areas.

Manufactured homes are prohibited in coastal high-hazard areas unless they are currently in existing manufactured home parks.

Sec. 78-126. – Same – Adherence to Regulations in Coastal High-Hazard Areas.

All manufactured home parks in coastal high-hazard areas must meet construction regulations as described in Sections 78-122 through 78-125.

Sec. 78-127. – Standards for Subdivision Proposals.

(a) All proposals for the development of subdivisions, including manufactured home parks, shall be consistent with the provisions of this article.

(b) All proposals for the development of subdivisions, including manufactured home parks, shall meet building permit requirements of division 3 of this article.

(c) Base elevation data shall be generated for subdivision proposals which are greater than 50 lots or five (5) acres, and other proposed developments, including manufactured home parks, if not otherwise provided pursuant to this article.

(d) All proposals for the development of subdivisions, including manufactured home parks, shall have adequate drainage to reduce exposure to flood hazards.

(e) All proposals for the development of subdivisions, including manufactured home parks, shall have public utilities and facilities such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

Sec. 78-128. – Standards for Placement of Recreational Vehicles in AE, V, and X Zones.

(a) All recreational vehicles placed on sites within AE, V or X zones, as determined by the FIRM adopted pursuant to this article, shall either:

(1) Be on the site for fewer than 180 consecutive days.

(2) Be licensed and registered and ready for highway use.

i. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions or appurtenances.

Sec. 78-129. – Coastal High-Hazard Areas.

(a) Located within the special flood hazard areas, established in the FIRMs adopted pursuant to this article, are areas designated as coastal high-hazard areas. These areas have special flood hazards associated with high-velocity waters from tidal surges and hurricane wave wash; therefore, in addition to meeting all provisions outlined in this article, the following provisions must also apply:

(1) The elevation, in relation to mean sea level, must be obtained measured to the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The director shall maintain a record of all such information.

(2) All new construction shall be located landward of the reach of mean high tide.

(3) All new construction and substantial improvements shall be elevated on pilings and columns so that:

i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;

ii. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year 100-year mean recurrence interval;

iii. A registered professional engineer shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this paragraph (3).

(4) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.

i. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten nor more than 20 pounds per square foot.

ii. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer certifies that the designs proposed meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and

2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other

structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have not more than one percent chance of being equaled or exceeded in any given year (100-year means recurrence interval).

(5)If breakaway walls are utilized, such enclosed space shall be usable solely for the parking of vehicles, building access or storage. Such space shall not be used for human habitation.

(6)Use of fill for the structural support of buildings is prohibited.

(7)Man-made alteration(s) of sand dunes and mangrove stands, which would increase potential flood damage is prohibited.

Secs. 78-130 – 78-139. Reserved."

SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS FURTHER ORDAINS, That the provisions of this ordinance shall become effective on June 1, 2016.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS MAY 5, 2016

JASON ROGERS WILLIAMS
PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON MAY 6, 2016

APPROVED:
~~DISAPPROVED:~~ MAY 13, 2016

MITCHELL J. LANDRIEU
MAYOR

RETURNED BY THE MAYOR ON MAY 13, 2016 AT 4:55 P.M.

LORA W. JOHNSON
CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS: Brossett, Cantrell, Gray, Guidry, Head, Williams - 6

NAYS: 0

ABSENT: Ramsey - 1

THE FOREGOING IS CERTIFIED
TO BE A TRUE AND CORRECT COPY
Lora W. Johnson
CLERK OF COUNCIL