

ATTACHMENT B to ORDINANCE 2015-8  
(City of Belle Meade Municipal Floodplain Zoning Ordinance, Title 12, Chapter 4)

**CHAPTER 4**

**MUNICIPAL FLOODPLAIN ZONING ORDINANCE**

**12-401. City of Belle Meade Municipal Floodplain Zoning Ordinance.** The City of Belle Meade Municipal Floodplain Zoning Ordinance, Ord. #\_\_\_\_\_ has been added to this Municipal Code as Chapter 4 pursuant to Ordinance 2015-8.

**12-402. Municipal Floodplain Zoning Ordinance.** In order to minimize danger to life and property due to flooding within the City of Belle Meade, and to maintain eligibility for participation in the National Flood Insurance program (NFIP), the “Municipal Floodplain Zoning Ordinance,” is hereby adopted.

**12-403. Statutory authorization, findings of fact, purpose and objectives.**

- (1) **Statutory Authorization.** The Legislature of the State of Tennessee has, in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated, 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 City of Belle Meade, Tennessee, mayor and City Commission, do ordain as follows:
- (2) **Findings of Fact.**
  - (a) The City of Belle Meade, Tennessee, Mayor and its City Commission, wishes to meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
  - (b) Areas of the City of Belle Meade, Tennessee are subject to periodic inundation which could 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.
  - (c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.
- (3) **Statement of Purpose.** It is the purpose of this Ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

- (a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities.
  - (b) Require that uses vulnerable to floods, including community facilities, 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 floodwaters.
  - (d) Control filling, grading, dredging and other development which may increase flood damage or erosion.
  - (e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.
- (4) **Objectives.** The objectives of this Ordinance are:
- (a) To protect human life, health, safety and property.
  - (b) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  - (c) To minimize prolonged business interruptions.
  - (d) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas.
  - (e) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas.
  - (f) To ensure that potential homebuyers are notified that property is in a floodprone area.
  - (g) To maintain eligibility for participation in the NFIP.

#### **12-404. Definitions.**

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

- (a) “*Accessory Structure*” shall represent a subordinate structure to the principal structure and, for the purpose of this Title 12, Chapter 4, shall conform to the following:
  - (i) Accessory structures shall not be used for human habitation.

- (ii) Accessory structures shall be designed to have low flood damage potential.
  - (iii) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
  - (iv) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.
  - (v) Service facilities such as electrical and heating equipment shall be elevated or flood proofed.
  - (vi) “Accessory Structure” is a subset of the “Accessory User” and Accessory Building” defined at 14-202(b).
- (b) “Act” means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.
- (c) “*Addition (to an existing building)*” means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.
- (d) “*Appeal*” means a request for a review of the Building Official’s interpretation of any provision of this Ordinance or a request for a variance.
- (e) “*Area of Shallow Flooding*” means a designated AO or AH Zone on a community’s Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (f) “*Area of Special Flood-related Erosion Hazard*” is the land within a community, which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.
- (g) “*Area of Special Flood Hazard*” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, Al-30, AE or A99.
- (h) “*Base Flood*” means the flood having a one percent chance of being equaled or exceeded in any given year.

- (i) "*Basement*" means that portion of a building having its floor subgrade (below ground level) on all sides.
- (j) "*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.
- (k) "*Building*", for purposes of this section, means any structure built for support, shelter, or enclosure for any occupancy or storage. (See "*Structure*".)
- (l) "*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.
- (m) "*Elevated Building*" means a non-basement building (i) built to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), (ii) and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones Al-30, AE, A, A99, AO, AH, B, C, X, or D, "*elevated building*" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.
- (n) "*Emergency Flood Insurance Program*" or "*Emergency Program*" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.
- (o) "*Erosion*" means the process of the gradual wearing away of land masses. This peril is not per se covered under the Program.
- (p) "*Exception*" means a waiver from the provisions of this Ordinance, which relieves the applicant from the requirements of a rule, regulation, order or other determination, made or issued pursuant to this Ordinance.
- (q) "*Existing Construction*" means any structure for which the "start of construction" commenced before the effective date of this Ordinance.
- (r) "*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 this ordinance.
- (s) "*Existing Structures*" – See "*Existing Construction*".

- (t) “*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).
- (u) “*Flood*” or “*Flooding*” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (i) The overflow of inland or tidal waters; or
  - (ii) The unusual and rapid accumulation or runoff of surface waters from any source.
- (v) “*Flood Elevation Determination*” means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
- (w) “*Flood Elevation Study*” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- (x) “*Flood Hazard Boundary Map (FHBM)*” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood related erosion areas having special hazards have been designated as Zone A, M, and/or E.
- (y) “*Flood Insurance Rate Map (FIRM)*” means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (z) “*Flood Insurance Study*” is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles as well as the Flood Boundary Map and the water surface elevation of the base flood.
- (aa) “*Floodplain*” or “*Flood-prone Area*” means any land area susceptible to being inundated by water from any source (see definition of “flooding”).
- (bb) “*Floodplain Management*” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
- (cc) “*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 area 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.

- (dd) “*Flood Proofing*” means any combination of structural and nonstructural 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.
- (ee) “*Flood-related Erosion*” means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.
- (ff) “*Flood-related Erosion Area*” or “*Flood-related Erosion Prone Area*” means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.
- (gg) “*Flood-related Erosion Area Management*” means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works and flood plain management regulations.
- (hh) “*Floodway*” means 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 one foot.
- (ii) “*Floor*” means 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.
- (jj) “*Floorboard*” means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “*Floorboard*” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings and the hydrological effect of urbanization of the watershed.
- (kk) “*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.

- (ll) “*Highest Adjacent Grade*” means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.
- (mm) “*Historic Structure*” means any structure that 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;
  - (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 to qualify as a registered historic district;
  - (iii) Individually listed on a state inventory of historic places in states with historic preservation programs which 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.
- (nn) “*Levee*” means a man-made 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.
- (oo) “*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.
- (pp) “*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 requirements of this Ordinance.
- (qq) “*Manufactured Home*” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

- (rr) “*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.
- (ss) “*Map*” means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Agency.
- (tt) “*Mean Sea Level*” means 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 Ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.
- (uu) “*National Geodetic Vertical Datum (NGVD)*” as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (vv) “*New Construction*” means any structure for which the “start of construction” commenced on or after the effective date of this Ordinance. The term also includes any subsequent improvements to such structure.
- (ww) “*New Manufactured Home Park or Subdivision*” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.
- (xx) “*100-year Flood*” – See “Base Flood”.
- (yy) “*Person*” includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.
- (zz) “*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.
- (aaa) “*Regulatory Floodway*” means 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.

- (bbb) “*Riverine*” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- (ccc) “*Special Hazard Area*” means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AC, Al-30, AE, A99, or AH.
- (ddd) “*Start of Construction*” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, 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 (including a manufactured home) on a site, such as the pouring of slabs 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 a 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. 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.
- (eee) “*State Coordinating Agency*” (Tennessee Department of Economic and Community Development, Local Planning Assistance Office) means the agency of the state government, or other office designated by the Governor of the State or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program in that state.
- (fff) “*Structure*”, for purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.
- (ggg) “*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 fifty percent (50%) of the market value of the structure before the damage occurred.
- (hhh) “*Substantial Improvement*” means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “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: (1) 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 (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

- (iii) "*Substantially Improved Existing Manufactured Home Parks or Subdivisions*" are where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.
- (jjj) "*Variance*" is a grant of relief from the requirements of this Ordinance, which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.
- (kkk) "*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 certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.
- (lll) "*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.

## **12-405. General Provisions.**

- (1) Application. This Ordinance shall apply to all areas within the incorporated area of the City of Belle Meade, Tennessee.
- (2) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified on the Belle Meade, Tennessee, Federal Emergency Management Agency, Flood Insurance Rate Maps, Community - Panel Numbers 470408 0326F, 470408 0327F, and 470408 0328F; Effective Date: April 20, 2001 and any subsequent amendments or revisions, are adopted by reference and declared to be a part of this Ordinance.
- (3) Requirement for Development Permit. A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activity.
- (4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

- (5) Abrogation and Greater Restrictions. This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions or other applicable provisions of the Code of the City of Belle Meade. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.
- (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 Tennessee statutes.
- (7) Warning and Disclaimer of Liability. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.
  - (a) This Ordinance 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.
  - (b) This Ordinance shall not create liability on the part of the City of Belle Meade, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.
- (8) Penalties for Violation. Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, 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 herein contained shall prevent the City of Belle Meade, Tennessee from taking such other lawful actions to prevent or remedy any violation.

#### **12-406. Administration.**

- (1) Designation of Ordinance Administrator. The City Building Official is hereby appointed as the Administrator to implement the provisions of this Ordinance.
- (2) Permit Procedures. Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to, the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities. Specifically, the following information is required:

- (a) Application stage.
  - (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
  - (ii) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
  - (iii) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential flood-proofed building will meet the floodproofing criteria in Article V, Sections A and B.
  - (iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction Stage.

Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by, or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

(3) Duties and Responsibilities of the Administrator/City Building Official. Duties of the Administrator shall include, but not be limited to, the following:

- (a) Review all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
- (b) Review proposed development to assure that all necessary permits have been received from those 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.
- (c) Notify adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
- (d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
- (e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
- (f) Record the elevation, in relation to mean sea level or highest adjacent grade, where applicable, of the lowest floor (including basement) of all new or substantially improved buildings, in accordance with Article IV, Section B.
- (g) Record the actual elevation, in relation to mean sea level or highest adjacent grade, where applicable, to which the new or substantially improved buildings have been floodproofed, in accordance with Article IV, Section B.
- (h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
- (i) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (j) When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Belle Meade, Tennessee FIRM meet the requirements of this Ordinance.

- (k) Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator/City Building Official and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.

**12-407. Provisions for Flood Hazard Reduction.**

- (1) **General Standards.** In all areas of special flood hazard, the following provisions are required:
- (a) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - (b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent 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 of Tennessee and local anchoring requirements for resisting wind forces.
  - (c) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (d) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
  - (e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - (f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - (g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
  - (h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  - (i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of “new construction” as contained in this Ordinance.
  - (j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this Ordinance shall be undertaken only if said nonconformity is not further extended or replaced.

- (k) All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.
  - (l) All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B.
  - (m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction.
  - (n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.
- (2) **Specific Standards.** In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:
- (a) **Residential Structures.** In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than four (4) feet above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".
  - (b) **Non-Residential Structures.** In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".
  - (c) **Enclosures.** All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
    - (i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the flowing minimum criteria.

- 1) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
    - 2) The bottom of all openings shall be no higher than one (1) foot above the finished grade.
    - 3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
  - (ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
  - (iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Article V, Section B.
- (d) Standards for Manufactured Homes and Recreational Vehicles.
- (i) The City of Belle Meade regulates elsewhere in this code certain improvements to real property including the prohibition of manufactured homes and the parking of recreational vehicles. Without modification of, and consistent with, the other provisions of this code, the City hereby adopts the following additional provisions:
  - (ii) All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
  - (iii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
    - 1) In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than four (4) feet above the level of the Base Flood Elevation.
  - (iv) Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections A and B.
  - (v) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (vi) All recreational vehicles placed in an identified Special Flood Hazard Area must either:
- 1) Be on the site for fewer than 180 consecutive days, unless a shorter period of time is proscribed elsewhere in this Code;
  - 2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or
  - 3) The recreational vehicle must meet all the requirements for new construction.
- (e) Standards for Subdivisions and Other Proposed New Development Proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonable safe from flooding.
- (i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
  - (ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
  - (iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (3) Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated.

Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

- (a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the Base Flood Elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the

same methodologies as in the effective Flood Insurance Study for the City of Belle Meade, Tennessee and certification thereof.

- (b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.
- (c) All floodplain alterations that result in the filling or elimination of floodplain storage shall provide compensating storage capacity by excavating out at least an equal amount (1:1) of volume as occupied by fill. All excavated or cut materials shall be removed from the site before fill materials can be delivered, unless all fill material is generated onsite. Excavated or cut volumes below the lower of the top of bank or elevation of the 2-year storm event shall not be included in the compensating storage calculations. Every effort shall be made to preserve natural flow lines.

- (4) Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated. Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

- (a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when the water surface elevation of the base flood more than one-tenth (0.1) foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
- (b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B.
- (c) All floodplain alterations that result in the filling or elimination of floodplain storage shall provide compensating storage capacity by excavating out at least an equal amount (1:1) of volume as occupied by fill. All excavated or cut materials shall be removed from the site before fill materials can be delivered, unless all fill material is generated onsite. Excavated or cut volumes below the lower of the top of bank or elevation of the 2-year storm event shall not be included in the compensating storage capacity calculation. Every effort shall be made to preserve natural flow lines.

- (5) Standard for Unmapped Streams. Located within the City of Belle Meade, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

- (a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating 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-tenth (0.1) foot at any point within the Belle Meade.
- (b) When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.
- (c) All floodplain alterations that result in the filling or elimination of floodplain storage shall provide compensating storage capacity by excavating out at least an equal amount (1:1) of volume as occupied by fill. All excavated or cut materials shall be removed from the site before fill materials can be delivered, unless all fill material is generated onsite. Excavated or cut volumes below the lower of the top of bank or elevation of the 2-year storm event shall not be included in the compensating storage capacity calculation. Every effort shall be made to preserve natural flow lines.

#### **12-408. Variance procedures.**

- (1) Municipal Board of Building Code Appeals.

- (a) Authority.

The City of Belle Meade, Board of Building Code Appeals, shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

- (b) Procedure.

Meetings of the Board of Building Code Appeals shall be held at such times as the Board shall determine. All meetings of the Board of Building Code Appeals shall be open to the public. The Board of Building Code Appeals shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record. Compensation of the members of the Board of Building Code Appeals, if any, shall be set by the Commissioners.

- (c) Appeals: How Taken.

An appeal to the Board of Building Code Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Board of Building Code Appeals a notice of appeal, specifying the grounds

thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of \$100.00 (one-hundred dollars) for the cost of publishing a notice of such hearings shall be paid by the appellant. The City Building Official shall transmit to the Board of Building Code Appeals all papers constituting the record upon which the appeal action was taken. The Board of Building Code Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest, and decide the same within a reasonable time which shall not be more than fourteen (14) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers.

The Board of Building Code Appeals shall have the following powers:

- (i) Administrative Review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the City Building Official or other administrative official in the carrying out or enforcement of any provisions of this Ordinance.
- (ii) Variance Procedures. In the case of a request for a variance, the following shall apply:
  - 1) The City of Belle Meade, Board of Building Code Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
  - 2) Variances may be issued for the repair or rehabilitation of historic structures as defined herein 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 deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.
  - 3) In passing upon such applications, the Board of Building Code Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
    - a) The danger that materials may be swept onto other property to the injury of others;
    - b) The danger to life and property due to flooding or erosion;
    - c) The susceptibility of the proposed facility and its contents to flood damage;

- d) The importance of the services provided by the proposed facility to the community;
  - e) The necessity of the facility to a waterfront location, in the case of a functionally dependent facility;
  - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - h) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - i) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
  - j) 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, and streets and bridges.
- 4) Upon consideration of the factors listed above, and the purposes of this Title and Chapter, the Board of Building Code Appeals may attach such conditions to the granting of variances as it deems necessary to effectuate the purposes of this Ordinance.
- 5) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (iii) Imposition of Penalties: The City declares that any person violating the provisions of this ordinance may be assessed a civil penalty by the City of Belle Meade of not more than fifty dollars (\$50.00. Each day of violation shall constitute a separate violation.
- 1) Measuring civil penalties. In assessing a civil penalty, the Board of Building Code Appeals may consider:
- a) The harm done to the public health or the environment;
  - b) The duration and gravity of the violation(s);
  - c) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

- d) The economic benefit gained by the violator;
  - e) The amount of effort put forth by the violator to remedy this violation;
  - f) Whether the violation(s) was committed intentionally;
  - g) The prior record of the violator in complying or failing to comply with the floodwater management program;
  - h) Any unusual or extraordinary enforcement costs incurred by the city;
  - i) The amount of penalty established by ordinance or resolution for specific categories of violations; and
  - j) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
- (iv) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the Board of Building Code Appeals may recover:
- 1) All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.
  - 2) The costs of the city's maintenance of floodwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

(2) Conditions for Variances.

- (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.
- (b) Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; or (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 nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
- (c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates from flood insurance, and that such construction below the base flood level increases risks to life and property.

- (d) The City Building Official shall maintain the records of all appeal actions and report any variances to FEMA upon request.

**12-409. Legal Status Provisions.**

- (1) Conflict with Other Ordinances. In case of conflict between this Title and Chapter or any part thereof, and the whole or part of any existing or future Ordinance of the City of Belle Meade, Tennessee, the most restrictive shall in all cases apply.
- (2) Severability. If any section, clause, provision, or portion of this Title and Chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Title and Chapter which is not of itself invalid or unconstitutional.
- (3) Effective Date. This Ordinance shall become effective immediately after its passage on second reading in accordance with the Charter of the City of Belle Meade, Tennessee, and the public welfare demanding it.