

ARTICLE 22.08 – FLOOD DAMAGE PREVENTION ORDINANCE

DIVISION 1 – AUTHORIZATION AND PURPOSE AND METHODS

SECTION 22.08.001. – Title

This article shall commonly be cited as the Flood Damage Prevention Ordinance

SECTION 22.08.002. – Statutory Authorization

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

SECTION 22.08.003. 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 by provisions designed to:

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

SECTION 22.08.004. – Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance uses the following methods:

- (a) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

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

DIVISION 2 -- DEFINITIONS

SECTION 22.08.005. – Definitions

- (a) Rules of interpretation. Words and phrases used in this article shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the code. Words and phrases not defined in the Code of Ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number (and vice versa), and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
- (b) Specific Definitions.

Alluvial Fan Flooding - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal board – Development review committee whose members are the planning director, city engineer, city planner, building official and any other pertinent city official(s).

Appurtenant Structure – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

Area of Future Conditions Flood Hazard – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

Area of Shallow Flooding - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent chance or greater annual chance of flooding to an average depth of 1 to 3 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.

Area of Special Flood Hazard - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V. The area may also be designated as a local floodplain by the City or County.

Base Flood - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

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

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.

Certification – means a certification by a Texas registered professional engineer or other party that does not constitute a warranty or guarantee of performance, expressed or implied. Certification of data is a statement that the data is accurate to the best of the certifier's knowledge. Certification of analyses is a statement that the analyses have been performed correctly and in accordance with sound engineering practices. Certification of structural works is a statement that the works are designed in accordance with sound engineering practices to provide protection from the base flood. Certification of "as built" conditions is a statement that the structure(s) has been built according to the plans being certified, is in place, and is fully functioning.

Critical Facility – means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

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.

Development - means any man-made change to improved and 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.

Elevated Building – means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing Construction - means for the purposes of determining 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."

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.

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).

Fill, also known as Earthen fill – means fill that is sometimes placed in a Special Flood Hazard Area (SFHA) to reduce flood risk to the filled area. The placement of fill is considered development and will require a permit under applicable Federal, state and local laws, ordinances, and regulations. Fill is prohibited within the floodway unless it has been demonstrated that it will not result in any increase in flood levels. Some communities limit the use of fill in the flood fringe to protect storage capacity or require compensatory storage. The use of fill is prohibited for structural support of buildings in V Zones.

Flood or Flooding - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) the overflow of inland or tidal waters.

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

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.

Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) – see Flood Elevation Study

Floodplain or Flood-Prone Area - means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain administrator – City Engineer or their designee, or other City employee or consultant appointed by City Council appointed as Floodplain administrator.

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.

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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.

Flood Proofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway – see Regulatory Floodway

Freeboard – means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” 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 effects of urbanization of the watershed.

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.

Habitable Structure – means a structure suitable for human habitation including, but not limited to, single or multi-family residences, hotel, condominium buildings, and buildings for commercial purpose. Each building of a condominium regime is considered a separate habitable structure, but if a building is divided into apartment, then the entire building, not the individual apartment, is considered a single habitable structure. Additionally, a habitable structure includes porches, gazebos, and other attached improvements.

Highest Adjacent Grade - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure - means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory or historic places in the City of Dripping Springs as processed through the Historic Preservation Ordinance:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

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.

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.

Local Floodplain – means a land area with an upstream contributing drainage basin of sixty-four (64) acres or greater that would be inundated by the 1-percent-annual chance (100 year) flood and a Regulatory floodplain has not previously been identified.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 National Flood Insurance Program regulations.

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 connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

New Construction - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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 floodplain management regulations adopted by a community.

Non-habitable Structure - means a structure that is not suitable or intended for human habitation.

Participating Community – means a community in which FEMA has authorized the sale of flood insurance. Also known as an eligible community.

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.

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.

Riverine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area – see Area of Special Flood Hazard

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, 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 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. 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.

Structure – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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.

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: (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." f

Variance – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance

Program regulations.)

Water Surface Elevation - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

DIVISION 3 – GENERAL PROVISIONS

SECTION 22.08.006. – Lands to Which This Ordinance Applies

The ordinance shall apply to all properties that include areas of special flood hazard within the city limits and extra-territorial jurisdiction (ETJ) of the City of Dripping Springs. The City may at its discretion defer authority to the Hays County Floodplain administrator within the ETJ.

SECTION 22.08.007. – Basis for Establishing the Areas of Special Flood

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, “Flood Insurance Study (FIS) for Hays County TX and Incorporated Areas,” dated Effective January 17, 2025, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated January 17, 2025, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

SECTION 22.08.008. – Establishment of Development Permit

A Floodplain Development Permit shall be required for any development within an Area of Special Flood Hazard or any area that is determined to be local floodplain by the City Floodplain administrator.

Additional floodplain data may be generated which will improve the accuracy of floodplain boundary identification. The City is routinely made aware of map changes and additional flood studies. The Floodplain administrator may determine whether a property or development is within a flood hazard area based on available data and may make recommendations for construction standards which will minimize or eliminate the possibility of damage from localized drainage problems.

SECTION 22.08.009. – Compliance

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

SECTION 22.08.010. – Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant,

or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 22.08.011. – Interpretation

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION 22.08.012. – 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. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance 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 ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

SECTION 22.08.013. – Establishment of Fees

The City Council, upon the recommendation of the Floodplain administrator, shall establish application fees commensurate with the service rendered by the City. Development fees are payable at the time of application. Floodplain and associated fees will be adopted by ordinance in the City of Dripping Springs Fee Schedule.

DIVISION 4 - ADMINISTRATION

SECTION 22.08.014. – Designation of the Floodplain administrator

The City Engineer or their designee is hereby appointed the Floodplain administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION 22.08.015. – Duties and Responsibilities of the Floodplain administrator

Duties and responsibilities of the Floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (2) Review permit application to determine whether proposed construction or other

development, including the placement of manufactured homes, will be reasonably safe from flooding.

- (3) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental 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) 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) the Floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Section 22.08.008, the Floodplain administrator 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 Part 5.
- (9) When a regulatory floodway has not been designated, the Floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and 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 foot at any point within the community.
- (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all of the provisions required by Section 65.12.

SECTION 22.08.016. – Permit Procedures

(a) Application for a Floodplain Development Permit shall be presented to the Floodplain administrator, prior to undertaking any development activities, using forms furnished by the Floodplain administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information, certified by a Texas professional who is authorized to certify such information, is required:

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

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(3) A certificate from a Texas registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 22.08.009 (b);

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

(5) Maintain a record of all such information in accordance with Section 22.08.015 (a).

(6) Upon placement of the lowest floor, or flood proofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain administrator a certification of the elevation of the lowest floor or flood proofed elevation, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a Texas registered land surveyor or Texas licensed professional engineer who is authorized to certify such information, and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Floodplain administrator shall review the lowest floor elevation and flood proofing certificate. Should these documents be found not in conformance with the requirements of these rules, the permit holder shall immediately cease further work, and shall correct any deficiencies. Failure of the permit holder to submit the surveyed lowest floor elevation and flood proofing certificate, and failure to correct said deficiencies required hereby, shall be the cause to issue a stop-work order for the project.

(b) Approval or denial of a Floodplain Development Permit by the Floodplain administrator shall be based on all of the provisions of this ordinance 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;
 - (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;
- (c) It shall be unlawful to use, occupy or permit the use or occupancy of any building, development, or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Flood Hazard Area Permit has been issued by the Floodplain administrator stating that the use of the development conforms to the requirements of this Section.
- (d) Permit Expiration - Approval of a Flood Hazard Area Permit shall expire and be of no further force and effect in the event that:
- (1) None of the activities authorized in the permit are commenced within one (1) year from the date of issuance; or,
 - (2) All of the activities authorized in the permit are not completed within two (2) years from the date of issuance.

SECTION 22.08.017. – Variance Procedures

- (a) Presumption. There shall be a presumption against variances.
- (b) General. Where the appeal board finds that undue hardships will result from strict compliance with a certain provision(s) of this article, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the city may

approve a variance from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the variance shall not have the effect of nullifying the intent and purpose of these regulations.

- (c) In approving a variance, the appeal board may require such conditions as will, in its judgment, secure substantially the purposes described herein.
- (d) Variance Application.
 - (1) An application for a variance shall be submitted in writing by the property owner before the permit application is submitted for the consideration of the planning director or other approving authority. The application for variance must be submitted prior to review by the planning director.
 - (2) The application shall state fully the grounds for the application, and all of the facts relied upon by the applicant.
- (e) The appeal board 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 Floodplain administrator in the enforcement or administration of this ordinance.
- (f) Any person or persons aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (g) The Floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (h) 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.
- (i) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 22.08.016 (b) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (j) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Section 22.08.003).
- (k) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- (l) 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.
- (m) Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) 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.
 - (3) Any applicant to whom 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.
- (n) Variances may be issued by a community 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 Section 22.08.017 (a)-(i) 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.

DIVISION 5 – PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION 22.08.018. – General Standards

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements.

- (a) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (c) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

- (d) 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.
- (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (f) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (g) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION 22.08.019. – Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 22.08.007, (ii) Section 22.08.015 (h), or (iii) Section 22.08.020 (c), the following provisions are required:

- (a) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to at least one (1) foot above the base flood elevation. A Texas registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain administrator that the standard of this subsection as proposed in Section 22.08.016 (a) a, is satisfied.
- (b) 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 at least one (1) foot above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A Texas 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. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain administrator.
- (c) Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which 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

Texas registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than 1 foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (d) Manufactured Homes -
- (1) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated such that the lowest floor of the manufactured home is elevated to at least one (1) foot above the base flood elevation 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.
 - (2) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (e) Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Section 28.08.016 (a), and the elevation and anchoring requirements for "manufactured homes" in Section 28.08.018 (d) of this section. 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.
- (f) Fences in Special Flood Hazard Area

- (1) Exempted Fencing -- No Flood Hazard Area Permit is required for open pipe, rail, or wire fencing that is 90% "open" and that have posts less than 14" diameter placed no closer than 8-feet apart.
- (2) Non Exempt Fencing-- any proposed fence in a 100-year floodplain that is not an exempt fence is considered to be development and requires issuance of a Flood Hazard Area Permit.
- (3) Any fencing that crosses a stream channel must be designed and constructed so that it will break away or collapse to allow discharge of flood waters.
- (4) On a navigable stream or river a property owner must comply with the Texas Parks and Wildlife Code so that public recreational use is not limited, obstructed, restricted, or interfered with.

SECTION 22.08.020. – Standards for Subdivision and Site Developments

- (a) All subdivisions including the placement of manufactured home parks and subdivisions shall be consistent with Sections 22.08.002, 22.08.003, and 22.08.004 of this ordinance.
- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Section 22.08.008; Section 22.08.016; and the provisions of Division 5 of this ordinance.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 22.08.007 or Section 22.08.015 (h) of this ordinance.
- (d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (f) All plats shall have the Floodplain and Floodway clearly delineated on the plat and, where appropriate, shall have the lowest floor elevations for all lots located within Flood Hazard Areas.
- (g) All subdivision and site development Applications which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located within the platted property, and must be indicated on the subdivision plat.

- (h) A drainage area of sixty-four (64) acres or greater within a contributing watershed for which a Regulatory floodplain has not previously been identified shall require the identification of a local flood plain. For areas of flow with less than sixty-four (64) acres of contributing area, the identification of a local flood plain is not required; however, any concentrated flow necessitates the dedication of a drainage easement to contain the spread of the 100-year storm flow.
- (i) Where a property is traversed by a watercourse, drainageway or channel, there shall be provided a storm drainage easement conforming substantially with the 100-year floodplain of such course and of such additional width as may be designated by the Floodplain administrator, subject to determination according to proper engineering considerations.

SECTION 22.08.021. – Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard established in Section 22.08.007, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 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; therefore, the following provisions apply:

- (a) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).
- (b) All new construction and substantial improvements of non-residential structures;
 - (1) have the lowest floor (including basement) elevated to at least one (1) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or
 - (2) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (c) A Texas registered professional engineer or architect shall submit a certification to the Floodplain administrator that the standards of this Section, as proposed in Section 22.08.016 are satisfied.
- (d) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

SECTION 22.08.022. – Floodways

Floodways - located within areas of special flood hazard established in Section 22.08.007, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (a) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (b) If Section 22.08.022 (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (c) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

SECTION 22.08.023. – Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA, preferably outside the 0.2% annual chance floodplain. Construction of new critical facilities may be permissible within the SFHA if feasible alternative sites are unavailable. Critical facilities constructed within the SFHA shall have the lowest floor elevated at least one (1) foot above the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the maximum extent possible.

DIVISION 6 – VIOLATIONS AND PENALTIES

SECTION 22.08.024. – Violations.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. . Nothing herein contained shall prevent the City of Dripping Springs from taking such other lawful action as is necessary to prevent or remedy any violation. Should the property owner receiving written notice from the floodplain administrator, building official, or code enforcement official of a violation of this article fails to correct a violation of this article within the time stated in the written notice, the floodplain administrator or the administrator's designee may cause correction of the violation. The floodplain administrator may also pursue criminal penalties

and/or civil action as provided for under this article and state law.

SECTION 22.08.025 -- Offense

(a) A person who violates, causes, allows or permits a violation a section of this article commits a misdemeanor punishable by a fine not exceeding \$500.00.

(b) Each violation of this article designated as an offense constitutes a separate offense.

(c) Sections containing an offense:

(1) Section 22.08.009, Compliance.

(2) Section 22.08.016, Permit Procedures.

(3) Section 22.08.018, General Standards.

(4) Section 22.08.019, Specific Standards.

(5) Section 22.08.020, Standards for Subdivision and Site Developments.

(6) Section 22.08.021, Standards for Areas of Shallow Flooding (AO/AH Zones).

(7) Section 22.08.022, Floodways.

(8) Section 22.08.024, Violations.

SECTION 22.08.026 – Liability.

The provisions of this chapter shall not be construed as relieving or limiting in any way the responsibility or liability of any person that develops or owns property, from personal injury or property damage resulting from the development of the property, or resulting from the negligence or willful acts of such person in the design, construction, maintenance, repair or development of property developed in accordance with a permit issued under the provisions of this article. Nor shall it be construed as imposing upon the city or its officers, employees or agents any responsibility or liability by reason of the approval of any permit or variance under these provisions.

SECTION 22.08.027 – Civil remedies.

Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to the following:

(1) Injunctive relief to prevent specific conduct that violates the chapter or to require specific conduct that is necessary for compliance with the article enjoined of development that violates this article at the expense of the property owner; and

(2) A civil penalty up to \$1,000.00 a day when it is shown that the defendant was notified of the provisions of the article and after receiving notice committed acts in violation of the article or failed to take action necessary for compliance with the article; and other available relief.

