

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 008-030

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE CODE OF ORDINANCES OF THE TOWN BY AMENDING CHAPTER 42 (FLOODS) THEREOF BY AMENDING SECTION 42-32 (DEFINITIONS), SECTION 42-33 (APPLICABILITY), 42-34 (PENALTIES FOR NONCOMPLIANCE), SECTION 42-57 (DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR), SECTION 42-60 (VARIANCES), SECTION 42-77 (SPECIFIC STANDARDS), AND SECTION 42-80 (FLOODWAYS), AND BY ADDING TO CHAPTER 42 A NEW SECTION 42-81 (SEVERABILITY), THE SAID AMENDMENTS AND ADDITION BEING RELATED TO THE TOWN'S PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Amendments. The Code of Ordinances (the "Code") of the Town of Addison, Texas (the "City") is hereby amended in the following particulars, and all other chapters, articles, sections, subsections, paragraphs, phrases, words, and parts of the said Code are not amended but are hereby ratified and affirmed:

A. Chapter 42, Floods, of the Code is hereby amended as follows:

1. Section 42-32, Definitions, of the Code is amended by (a) adding thereto a definition of "appurtenant structure" (the said definition to be added after the definition of "apex" and before the definition of "area of shall flooding"), (b) adding thereto a definition of "base flood elevation" (the said definition to be added after the definition of "base flood" and before the definition of "basement"), (c) adding a definition of "flood elevation study" (the said definition to be added after the definition of "flood or flooding" and before the definition of "flood insurance rate map"), (d) amending the definition of "flood insurance study," (e) amending the definition of "historic structure," (f) amending the definition of "new construction," (g) amending the definition of "new manufactured home park or subdivision," (h) amending the definition of "structure," (i) amending the definition of "variance," (j) amending the definition of "violation," and (k) amending the definition of "water surface elevation," as follows (underlining represents an addition; ~~strike-through~~ represents a deletion):

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.

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.

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 study (FIS) – see flood elevation study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary Floodway Map.

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; ~~or~~
- (3) individually listed on the state's inventory of historic places; or
- (4) individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

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~~December 12, 2000.~~

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

Variance means a grant of relief by a community from the terms of a floodplain management regulation~~from the requirements of this article that permits construction or development in a manner that would otherwise be prohibited by this article.~~ (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the ~~community's~~town's floodplain management regulations. A structure or other development without the elevation certificate, other appropriate certifications, or other required evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988~~National Geodetic Vertical Datum (NGVD) of 1929~~ (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

2. Section 42-33, Applicability, of the Code is amended to read as follows (underlining represents an addition; ~~strike-through~~ represents a deletion):

Sec. 42-33. Applicability.

This article applies to all areas of special flood hazard within the jurisdiction of the Town of Addison.

3. Section 42-34, Penalties for noncompliance, of the Code is amended to read as follows (underlining represents an addition; ~~strike-through~~ represents a deletion):

Sec. 42-34. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered, or have its use changed without full compliance with the terms of this article and all other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation in accordance with section 1-7 of this Code, and in addition shall pay all costs and expenses involved in the case. Each day a violation continues to exist will constitute a new and separate violation.

Nothing contained in this article shall prevent the ~~T~~town of Addison from taking such other lawful action as is necessary to prevent or remedy any violation.

4. Section 42-57, Duties and responsibilities of the floodplain administrator, of the Code is amended to read as follows (underlining represents an addition; ~~strike-through~~ represents a deletion):

Sec. 42-57. Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator include, but are not limited to, the following:

- (1) Maintaining for public inspection all records pertaining to the provisions of this article.
- (2) Reviewing permit applications to determine whether proposed building sites, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Reviewing all applications for development permits required by this article to determine that all permit requirements have been satisfied.
- (4) Reviewing permits for proposed development to determine 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) Making interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).
- (6) Notifying adjacent communities and the Texas Water Development Board~~Natural Resource Conservation Commission~~ prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Emergency Management Agency.
- (7) Assuring that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) Obtaining, reviewing and reasonably utilizing any base flood elevation data and floodway data available from a federal, state or other source, in order to administer this article, when base flood elevation data has not been provided in accordance with section 42-37.
- (9) Requiring that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the FIRM when a regulatory floodway has not been designated, 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 town.

(10) ~~Making application~~ Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain for a conditional FIRM revision (Conditional Letter of Map Revision) through FEMA, when appropriate to approve development that increases the water surface elevation of the base flood by more than one foot in Zones A1-30, AE, or 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.

5. Section 42-60, Variances, subsection (b) of the Code is amended to read as follows (underlining represents an addition; ~~strike-through~~ represents a deletion):

(b) The building code board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.—~~All decisions of the building code board of appeals are final.~~

6. Section 42-77, Specific standards, subsection (4) (manufactured homes) of the Code is amended to read as follows (underlining represents an addition; ~~strike-through~~ represents a deletion):

(4) *Manufactured homes.*

a. Manufactured homes to be placed within Zone A on the FHBM or FIRM must be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated to two (2) feet 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.

b. Manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the 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, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

c. Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the FIRM that are not subject to the provisions of subsection (4)b. of this section must be elevated so that either:

- i. The lowest floor of the manufactured home is at or above the base flood elevation, or
- ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

7. Section 42-80, Floodways of the Code is amended to read as follows (underlining represents an addition; ~~strike through~~ represents a deletion):

Sec. 42-80. Floodways.

Located within areas of special flood hazard established in section 42-37, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris, potential projectiles and erosion potential, the following provisions apply:

- (1) 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 town during the occurrence of the base flood discharge.
- (2) If subsection (1) of this section 42-80 is satisfied ~~to permit encroachment~~, all new construction and substantial improvements must comply with all applicable flood hazard reduction provisions of this article.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit eEncroachments within the adopted regulatory floodway that would result in an increase in base flood elevations ~~are prohibited, provided that the community first completes all of the provisions required by Section 65.12 unless the floodplain administrator obtains a conditional FIRM and floodway revision through FEMA.~~

8. A new Section 42-81, Severability is added to the Code to read as follows:

Section 42-81. Severability.

If any section, clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this chapter.

Section 3. Savings. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of such ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

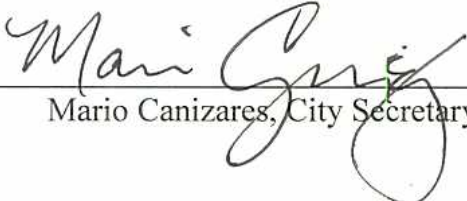
Section 4. Severability. The provisions of this Ordinance are severable, and if any section or provision of this Ordinance or the application of any section or provision to any person, firm, corporation, situation or circumstance is for any reason adjudged invalid or held unconstitutional, the same shall not affect the validity of any other section or provision of this ordinance or the application of any other section or provision to any other person, firm, corporation, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance without the invalid parts and to this end the remaining provisions of this Ordinance shall remain in full force and effect.

Section 5. Effective Date. This Ordinance shall take effect immediately from and after its passage and approval.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 26th day of August, 2008.


Joe Chow, Mayor

ATTEST:

By: 
Mario Canizares, City Secretary

APPROVED AS TO FORM:

By: 
City Attorney