

CHAPTER 13

FLOOD HAZARD PROTECTION

SECTION 1: PURPOSE AND AUTHORITY

A. AUTHORITY

This chapter is adopted under the authority of the constitution and laws of the State of Texas, including particularly Chapter 231, Acts of the 40th Legislature, Regular Session, as heretofore or hereafter amended, compiled as Article 974a, V.A.C.S., the provisions of Section 4 of the Municipal Annexation Act as heretofore or hereafter amended, compiled as Article 970a, V.A.C.S., and in Article 1175, V.A.C.S., as heretofore or hereafter amended, and pursuant to the provisions of the Charter of the City of College Station, Texas.

(Ordinance No. 1728 of October 22, 1987)

B. PURPOSE

It is the purpose of this chapter to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with the increased stormwater flows generated by development. It is also the purpose of this chapter to enhance the public health, safety and welfare by furthering the goals and objectives of the City of College Station Comprehensive Plan and all of its elements. The following objectives will minimize public and private losses due to flooding, erosion, and sedimentation.

- (1) To protect human life and health;
- (2) To minimize the expenditure of public money for costly flood and erosion control projects;
- (3) To minimize the need for relief and rescue efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize the damage to public facilities and utilities such as water and sewer lines, streets, and drainage structures;
- (5) To help maintain a stable tax base for the City by providing for the sound use and development of all areas in such a manner as to minimize future areas of flooding;

(Ordinance No. 2277 of November 13, 1997)

- (6) To establish review, approval, and permit procedures for the methods of handling, conveying, and disposing of stormwater flows within the corporate limits and extraterritorial jurisdiction of the City, and insure the review by the appropriate authority of the design, analysis, construction and maintenance of all drainage facilities according to the provisions of this ordinance and the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications;

(Ordinance No. 2950 of January 11, 2007)

- (7) To restrict or prohibit development which is dangerous to health, safety, or property during flooding conditions, or causes unacceptable increases in water surface elevations or velocities;
- (8) To require that uses vulnerable to floods, or flooding, including public and private facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (9) To provide authoritative guidance in the alteration of any natural stream course, flood plain, or their associated protective barriers which are involved in the accommodation of floodwaters;
- (10) To prevent the construction of barriers which will divert stormwater flows and subject other lands to increased flood hazard;
- (11) To provide authoritative guidance in the modification of ground cover to minimize erosion and sedimentation;
- (12) To ensure that potential property owners are notified if the property is included in an area of special flood hazard;
- (13) To control filling, grading, dredging, and other development which may increase flood damage.

(Ordinance No. 2277 of November 13, 1997)

SECTION 2: DEFINITIONS

ACCELERATED SOIL EROSION - means the erosion that results from increased slope and/or exposure of the land surface that occurs as a result of man's activities.

ANTICIPATED DEVELOPMENT - means full potential urbanization of the contributing watershed in compliance with the Comprehensive Plan and the reasonable assumption that in considering the effects of a proposed development in a floodplain area that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream or water course.

APPEAL - means a request for a review of the Administrator's interpretation of any provisions of this ordinance or a request for a variance.

AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater 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.

AREA OF SPECIAL FLOOD HAZARD - is the land adjacent to a clearly defined channel 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 Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, AI-99, VO, V1-30, VE, or V.

BASE FLOOD - means the flood having a one percent chance of being equalled or exceeded in any given year ("The 100 Year Flood").

"BASE FLOOD ELEVATION (BFE) - shall mean 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.

(Ordinance No. 3133 of November 5, 2008)

CERTIFICATE OF COMPLIANCE - means a letter signed by the Administrator indicating compliance with all plans and specifications applicable to the subject project and completion of all stormwater management and soil erosion protection measures.

CITY - refers to the municipal corporation, City of College Station, Texas.

CITY ATTORNEY - means the person employed as City Attorney of the City of College Station, Texas.

CITY COUNCIL - shall mean the duly and constitutionally elected governing body of the City of College Station, Texas.

CITY ENGINEER - means the person employed as City Engineer of the City of College Station, Texas, or his assign.

CONSTRUCTION PLANS - means the construction documents required to accompany the final plat according to the Subdivision Control Ordinance of the City of College Station, or the building and site plans required for the issuance of a building permit by the City of College Station.

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.

DETENTION - the temporary storage and controlled release of stormwater flows.

DETENTION FACILITY - means a permanent facility for the temporary storage of stormwater flows which is designed so as not to create a permanent pool of water.

(Ordinance No. 1728 of October 22, 1987)

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, clearing, or drilling operations.

(Ordinance No. 1740 of February 25, 1988)

DRAINAGE AREA - means that area, measured in a horizontal plane, which contributes stormwater flows by gravity flow along natural or man-made pathways to a single designated point along a pathway.

DRAINAGE EASEMENT - means an interest in land granted to the City for maintenance of a drainage facility, on which certain uses are prohibited; and providing for the entry and operation of machinery and vehicles for maintenance.

(Ordinance No. 1728 of October 22, 1987)

DRAINAGE FACILITY - means any element necessary to convey stormwater flows from its initial contact with earth to its disposition in an existing watercourse; said drainage facilities shall consist of both public and private storm sewers (closed conduits), streets, improved channels constructed in conformity with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications, unimproved drainageways left in their natural condition, areas covered by drainage easements for the purpose of providing concentrated or overland sheet flow, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, energy dissipaters, culverts, etc.

(Ordinance No. 2950 of January 11, 2007)

DRAINAGE RIGHT-OF-WAY - means an area of land dedicated to the City for the purposes of carrying and containing stormwater flows, constructing drainage facilities, and/or allowing entry or operation of maintenance equipment.

EARTH CHANGE - means a man-made change in the natural cover or topography of land, including cutting or filling activities, which may result in or contribute to soil erosion or sedimentation.

EASEMENT - means a grant of reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

(Ordinance No. 1728 of October 22, 1987)

ELEVATED BUILDING - means a non-basement building (i) built, in the case of a building in Zones AI-A30, AE, A, A99, AO, AH, B, C, X and D, to have the top of the elevated floor, or in the cases of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear wall parallel to the flow of the water and (ii) 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 AI-A30, AE, A, A99, AO, AH, B, C, X and 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 floodwaters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the applicable standards of the National Flood Insurance Program regulations.

(Ordinance No. 1740 of February 25, 1988)

ELEVATION - means the vertical distance from a datum, usually the NGVD, to a point or object. If the elevation of point A is 802.46 ft., the point is 802.46 ft., above some datum.

ENCROACHMENT - means an intrusion, obstruction, or other infringement on an area reserved for a specific purpose such as an easement or floodway.

EROSION - means the process whereby the surface of the earth is broken up and carried away by the action of wind, water, gravity, ice, or a combination thereof.

EXCAVATION - means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated purposely by man and shall be taken to include the conditions resulting therefrom.

EXISTING CONSTRUCTION - means structures for which the "start of construction" commenced before the effective date of the FIRM. "Existing construction" may also be referred to as "existing structures".

EXISTING DEVELOPMENT - means any development as defined above which existed or was permitted prior to the date on which this ordinance became effective.

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.

(Ordinance No. 3133 of November 5, 2008)

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).

(Ordinance No. 3133 of November 5, 2008)

EXTRATERRITORIAL JURISDICTION - within the terms of the Texas Municipal Annexation Act, means the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the City of College Station, the outer boundaries of which are measured from the extremities of the corporate limits of the city, outward for such distances as may be stipulated in the Texas Municipal Annexation Act, in which area, within the terms of the act, the City may enjoy the violation of its subdivision control ordinance.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) - is an agency of the Federal Insurance Administration which administers the National Flood Insurance Program.

FLOOD OR FLOODING - a temporary rise in the level of water which results in inundation of areas not ordinarily covered by water from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD FREQUENCY - means the statistically determined average for how often a specific flood level or discharge may be equalled or exceeded.

FLOOD HAZARD BOUNDARY MAP (FHBM) - means an official map of a community, issued by the Federal Insurance Administration, where the areas within the boundaries of special flood hazards have been designated.

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, the water surface elevation of the base flood, as well as the Flood Hazard Boundary Floodway Map.

FLOODPLAIN OR FLOOD-PRONE AREA - means any land susceptible to being inundated by water from any source (see definition of flooding).

FLOODPROOFING - 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.

(Ordinance No. 3133 of November 5, 2008)

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

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.

FLOODWAY FRINGE - means that part of the base floodplain outside the floodway.

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 or unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

GRADING - means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof.

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 the Interior; 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."

(Ordinance No. 3133 of November 5, 2008)

LAND USE - a use of land which may result in an earth change, including, but not limited to, subdivision, residential, commercial, industrial, recreational, or other development, private and public highway, road and street construction, drainage construction, logging operations, agricultural practices, oil and gas exploration, exploitation, extraction and mining.

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 practice.

LOT - means a tract or parcel of land which is physically and legally undivided and is shown on a duly recorded plat.

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.

MANUFACTURED HOME - means a structure, transportable in one or more sections, which is built on a permanent chassis designed to be used with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or for sale.

MEAN SEA LEVEL - means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which the base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) - means the nationwide reference surface for elevations throughout the United States made available to local surveyors by the National Geodetic Survey with the establishment of thousands of benchmarks throughout the continent. It was obtained through a least-squares adjustment in 1929 of all first-order leveling in the United States and Canada. The adjustment included the 26 tide stations, and thus referenced the NGVD to MSL.

NATURAL - the cover and topography of land before any manmade changes, or in areas where there have already been manmade modifications, the state of the area and topography of land at the date of the adoption of this ordinance.

NEW CONSTRUCTION - means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

PERSON - an individual, firm, corporation, partnership, or association .

PLANNING AND ZONING COMMISSION - means the duly appointed Planning and Zoning Commission of the City of College Station, Texas.

PLAT - the final plat as described in the Subdivision Control Ordinance of the City of College Station.

(Ordinance No. 1728 of October 22, 1987)

PRIMARY DRAINAGE SYSTEM - means the system of natural watercourses, improved or channelized watercourses; and all closed conduits, culverts, bridges, detention facilities, and retention facilities associated with the watercourses; all of which are shown or indicated in the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications.

(Ordinance No. 2950 of January 11, 2007)

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.

(Ordinance No. 3133 of November 5, 2008)

REGISTERED PROFESSIONAL ENGINEER - a person duly authorized and licensed under the provisions of the Texas Engineering Practice Act, to practice the profession of engineering.

RETENTION - means the storage of stormwater flows in a facility which has a permanent pool of water.

RETENTION FACILITY - means a facility that provides for the storage of stormwater flows by means of a permanent pool of water or permanent pool in conjunction with a temporary storage component.

SECONDARY DRAINAGE SYSTEM - means the system of conveyance of rainfall from the point that it becomes concentrated flow to the point where it reaches the primary drainage system. This system includes all swales, ditches, minor channels, streets, gutters, inlets, culverts, detention or retention facilities, or other means of conveyance of stormwater flows.

SEDIMENT - means soils or other surficial materials transported or deposited by the action of wind, ice, or gravity as a product of erosion.

SITE PLAN - a site development plan submitted for approval as described in the Zoning Ordinance of the City of College Station.

START OF CONSTRUCTION - includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of a 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 a dwelling unit and not part of the main structure.

STORMWATER MANAGEMENT - includes all ordinances, standards, plans, and studies to insure the timely and effective construction of:

- (1) a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and
- (2) a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

STRIPPING - any activity which removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.

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

SUBDIVISION CONTROL ORDINANCE - means that chapter of the Code of Ordinances of the City of College Station entitled or pertaining to "Subdivisions".

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.

(Ordinance No. 3133 of November 5, 2008)

SUBSTANTIAL IMPROVEMENT - means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) any projects for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alterations of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE - means the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would: (1) result in unnecessary hardship and (2) not fulfill the intent of the Ordinance.

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum if specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE - means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash, in and including any area adjacent thereto which is subject to inundation by reason of overflow of flood water.

ZONING - means a method of land use control requiring the categorization of land use of every tract of land within a particular jurisdiction according to a zoning ordinance or code and usually in accordance with a land use plan which is intended to preserve the quality of life and orderly development of that jurisdiction.

ZONING ORDINANCE - refers to the duly enacted Zoning Ordinance of the City of College Station, Texas, adopted by reference in the Code of Ordinances.

SECTION 3: GENERAL PROVISIONS AND APPLICABILITY

A. LANDS TO WHICH THIS CHAPTER APPLIES

This chapter shall apply to all lands within the corporate limits and the extraterritorial jurisdiction of the City of College Station, Texas as adjusted from time to time by the action of the City Council.

(Ordinance No. 1728 of October 22, 1987)

B. ESTABLISHMENT OF BRYAN/COLLEGE STATION UNIFIED DESIGN GUIDELINES, STANDARD DETAILS, AND TECHNICAL SPECIFICATIONS

All design, construction plans, as-built construction plans, plats, zoning change requests, site plans, building permit applications, and all items relating to stormwater flows shall be in accordance with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications. This document shall be available at the office of the Administrator and shall be maintained by him as a single document.

(Ordinance No. 2950 of January 11, 2007)

C. ESTABLISHMENT OF DEVELOPMENT PERMIT

Issuance of a duly approved development permit shall be required prior to any development, as defined herein, to insure conformance to the provisions and requirements of this chapter.

(Ordinance No. 1728 of October 22, 1987)

- (1) Exception - The following uses shall be exempt from the permitting requirements of the ordinance but must otherwise meet all of the requirements of the ordinance and the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications:
 - (a) Customary and incidental grounds maintenance, landscaping, and gardening.
 - (b) Improvements by a homeowner on property used as their principal residence where that property lies outside of the designated Area of Special Flood Hazard.
 - (c) Uses by a landowner of their property for bona fide agricultural purposes where that property lies outside of the designated Area of Special Flood Hazard.

(Ordinance No. 2950 of January 11, 2007)

D. SEVERABILITY

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ordinance No. 1728 of October 22, 1987)

E. COMPLIANCE

No structure, permanent or otherwise, or land, shall hereafter be located, substantially improved, platted, replatted, subdivided, have its use changed, or have its drainage pattern changed, without full compliance with the terms and provisions of this chapter, the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications, and other applicable regulations. The provisions of this chapter shall apply to and be binding on any and all persons, firms, or corporations who singly or jointly seek to develop, redevelop, grade, regrade, excavate, landfill, berm, dike, or otherwise change existing land within the corporate limit of the City, or its extraterritorial jurisdiction.

- (1) Interpretation. In the interpretation and application of this chapter, all provisions shall be: (1) considered as minimum requirements; (2) liberally constructed in favor of the governing body, health, and safety, and (3) deemed neither to limit nor repeal any other powers granted under State statutes. The Administrator shall interpret and apply this chapter. If the Administrator determines that the meaning of a word, provision, or requirement is unclear, or that its application to a particular circumstance is uncertain, or upon written request for an interpretation by any interested party, the Administrator shall prepare a written interpretation or determination, setting forth the reasons, explanations, and conclusions regarding the interpretation. Appeals of interpretations made under this section shall be made in accordance with Section 4 of this chapter.
- (2) Abrogation and Greater Restriction. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions; however, where this chapter and another conflict, or overlap, whichever imposes the more stringent restrictions, under the interpretation of the Administrator, and subject to the provisions of interpretation defined above, shall apply.
- (3) Warning and Disclaimer of Liability. The degree of flood protection accorded by the requirements of this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations which are consistent with accepted engineering principles and practice. Floods from stormwater flows can and will occur which are greater than those indicated or referenced under this chapter, and water surface elevations may be increased by man-made or natural causes beyond the scope of this chapter. This chapter does not imply that land outside the areas of special flood hazard, or uses permitted within such areas will be free or protected from flooding or flood damages. This chapter shall not be construed as warranting any such protection or freedom. This chapter shall not create liability on the part of the City, the Administrator of this chapter, or any office or employee of the City, or for any flood damages resulting from reliance on or compliance with the provisions and requirements of this chapter or any administrative decision lawfully made thereunder.

(Ordinance No. 2950 of January 11, 2007)

- (4) Deleted

(Ordinance No. 3189 of July 9, 2009)

SECTION 4: ADMINISTRATION

A. DESIGNATION OF ADMINISTRATOR

The City Engineer shall be the Administrator to implement, administer, and oversee the provisions, terms, and conditions and requirements of this Chapter and shall maintain as his guideline for administration the purposes of this Chapter.

(Ordinance No. 3189 of July 9, 2009)

B. DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

The duties and responsibilities of the 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 chapter;
- (2) review, and approve or deny all applications for development permits, as required by this chapter, for compliance with the terms and provisions of this chapter;
- (3) assure that adequate inspection of construction permitted under the terms and provisions of this chapter are carried out in accordance with the permitted plan;

(Ordinance No. 1728 of October 22, 1987)

- (4) maintain, update, and provide to interested parties at a reasonable cost the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications,”

(Ordinance No.2950 of January 11, 2007)

- (5) assure that adequate maintenance of drainage pathways, including altered or relocated waterways, is provided such that capacity for carrying stormwater flows is maintained;

(Ordinance No. 1740 of February 25, 1988)

- (6) provide interpretation, where required, of boundaries of Areas of Special Flood Hazard, location of floodway, and water surface elevations, when disputes arise during review. (The initial determination of the above is the responsibility of the engineer working on the particular project.)

(Ordinance No. 1728 of October 22, 1987)

- (7) provide information to the Zoning Board of Adjustments, Municipal Court, or City Council, as applicable on all variance requests, administrative appeals, enforcement actions, and proposed amendments to the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications as required.
- (8) review and utilize any acceptable new flood study data in accordance with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications.

(Ordinance No. 2950 of January 11, 2007)

- (9) notify adjacent communities and the Texas Water Commission prior to any alteration or relocation of a watercourse, and submit evidence of notification to the Federal Insurance Administration;

(Ordinance No. 1740 of February 25, 1988)

- (10) interpret the terms and provisions of this chapter, as required, as they apply to each project, in accordance with the stated purpose of this chapter; and

- (11) 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.

C. ADMINISTRATIVE APPEALS

All rulings, requirements, and interpretations of the Administrator shall be final and binding on the parties thereto unless said rulings, requirements, and interpretations are appealed to the Municipal Court. Any person aggrieved thereby shall submit a formal appeal by filing a written notice of appeal with the Administrator within ten working days of the action prompting the appeal. The notice of appeal shall specify all rulings being appealed, and shall include the following:

- (1) specific sections of this chapter related to the appealed ruling or pertinent thereto;
- (2) a brief summary of all facts material to the appeal;
- (3) grounds for the appeal.

A hearing by the Municipal Court on the appeal shall take place at a regularly scheduled court meeting.

The ruling of the Municipal Court shall be finally binding upon all parties involved. Any party aggrieved by said final ruling may seek relief in a court of competent jurisdiction. The appeal of a ruling or requirement shall stay the enforcement of said ruling or requirement unless the Administrator certifies to the Court that by reason of fact a stay would, in his opinion, cause an immediate public hazard or impair life or property. In such case enforcement shall not be stayed other than by a restraining order from a court of competent jurisdiction.

D. PERMIT PROCEDURES

Prior to the issuance of a development permit, the following requirements shall be met:

- (1) A preliminary conference shall be held with the Administrator or his designated representative.

(Ordinance No. 1728 of October 22, 1987)

- (2) An application for a Development Permit shall be presented to the Administrator, on forms available in his office, and shall include one or more of the following: construction plans, drainage plan, erosion and sediment control plan, engineering drainage design and analysis documentation, drainage report, and location of the foregoing in relation to Areas of Special Flood Hazard; each of which shall conform to the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications.

(Ordinance No. 2950 of January 11, 2007)

- (3) The Administrator shall review the required information and application form and shall take one of the following actions:
 - (a) approve the development permit,
 - (b) disapprove the development permit,
 - (c) require additional information or an engineering conference with the applicant or his engineer.

The applicant shall be notified in writing of the action prescribed above. If the development permit has been disapproved, the specific reasons for disapproval shall be indicated in the notification. If additional information is required of the applicant, the specific requirements shall be indicated in the notification. A final determination of the

approval or disapproval of the development permit, considering the additional information, shall be made and written notification to the applicant given within ten working days after receipt of said additional information.

(Ordinance No. 1728 of October 22, 1987)

- (4) Any proposal which alters the floodways of the following special drainage areas:
- The entirety of Carter's Creek,
 - The main channel and south fork of Lick Creek,
 - Wolf Pen Creek from SH 6 By-Pass to the confluence with Carter's Creek and The Brazos River

shall receive written notice of approval or disapproval of the development permit from the Floodplain Administrator within sixty (60) working days after receipt of the proposal.

(Ordinance No. 2277 of November 13, 1997)

E. CONDITIONS OF APPROVAL

Approval or denial of a development permit by the Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

- (1) The danger to life or 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 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.
- (6) 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;
- (7) The necessity to the facility of a waterfront location, where applicable;
- (8) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (9) The relationship of the proposed use to the comprehensive site plan for that area.

SECTION 5: SPECIAL PROVISIONS

A. NATIONAL FLOOD INSURANCE PROGRAM

The National Flood Insurance Program (NFIP) is a federal program enabling property owners to purchase flood insurance. This program is based on an agreement between local communities and the federal government that if a community will implement programs to reduce future flood damages, the federal government will make flood insurance available within the community as a financial protection against flood losses. The United States Congress established the NFIP with the National Flood Insurance Act of 1968 and later modified and broadened the program. The NFIP is administered by the Federal Emergency Management Agency (FEMA). The following provisions are in accordance with the requirements for participation in the NFIP.

B. ESTABLISHMENT OF AREAS OF SPECIAL FLOOD HAZARD

“The areas of special flood hazard identified by the Federal Emergency Management Agency in the current effective scientific and engineering report entitled, “The Flood Insurance Study (FIS) for Brazos County, Texas and Incorporated Areas, dated February 9, 2000, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated February 9, 2000, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.”

(Ordinance No. 3133 of November 5, 2008)

C. REVISION OR AMENDMENT OF FLOOD INSURANCE STUDY

Any revision or amendment to the Flood Insurance Study which is requested by a land owner in the City shall be submitted to the designated Administrator of the Stormwater Management Program in accordance with the requirements set forth in the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications. All requests for map amendment or map revision must be approved by the Administrator in writing prior to their submission to FEMA. If a modification of any watercourse is involved where a total of 300 feet reach or more is channelized or closed within a culvert, an effective Conditional Letter of Map Amendment shall be on file with the Administrator prior to any development or issuance of a Development Permit. All submittals to FEMA shall be made at no cost to the City.

D. METHODS OF REDUCING FLOOD DAMAGE

In order that the purposes of this chapter shall be accomplished in accordance with Section 1, the following methods, measures, requirements, and practices may be utilized by the Administrator in accordance with the Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications:

- (1) Limit peak stormwater flows after development to that which existed before development;
- (2) Limit, control, or prevent changes in the path of stormwater flows across or away from a site or development;
- (3) Limit, control, or prevent alterations to existing watercourses and drainage facilities either inside or outside existing Areas of Special Flood Hazard;
- (4) Limit, control, or prevent the alteration of natural or developed Areas of Special Flood Hazard, channels, or protective barriers which are necessary to accommodate flood waters;
- (5) Limit, control, or prevent the use of existing or proposed drainage easements such that the easement remains useful for its intended purpose;

- (6) Limit, control, or prevent the construction of barriers which may increase flood hazards to other lands or facilities;
- (7) Establish or cause to be established adequate drainage easements and/or rights of way to control development and limit potential flood damage and protect existing or proposed drainage facilities;
- (8) Limit, control, or prevent dumping of refuse, fill, garbage, grass clippings, brush, waste concrete, or other materials in existing drainage facilities including swales, streets, inlets, ditches, storm sewers, culverts, etc.;
- (9) Limit, control, or prevent filling, grading, clearing, dredging, paving, berming, or other earthwork which may increase stormwater flows, change drainage pathways, increase erosion and sedimentation, or increase flood hazard or damage from flooding;
- (10) Limit, control, or prevent development which is dangerous to health, safety, or property by causing increases in water surface elevations, velocities, or flowrates which exist prior to such development;
- (11) Limit, control, or prevent development which is vulnerable to flood damage or require that said development shall be adequately protected against said flood damage at the time of construction;
- (12) Require adequate maintenance of drainage facilities such that they retain their capacity for conveyance of stormwater flows.

(Ordinance No. 2950 of January 11, 2007)

E. SPECIAL PROVISIONS FOR AREAS OF SPECIAL FLOOD HAZARD

In all areas of Special Flood Hazard the following requirements shall apply to all public and private developments:

- (1)** All new construction, any substantial improvement to a structure, and appurtenances shall be securely anchored to prevent flotation, collapse or lateral movement.

(Ordinance No. 2950 of January 11,2007)

- (2)** All new construction, any substantial improvement to a structure, and appurtenances shall be constructed in such a manner as to minimize flood damage and provide adequate drainage; and, all electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located at least one foot above the Base Flood Elevation so as to prevent water from entering or accumulating within the components during conditions of flooding;"

(Ordinance No. 3133 of November 5,2008)

- (3)** New and replacement sanitary sewage systems, including but not limited to septic tanks and drain fields, package treatment plants, etc., shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters;
- (4)** New and replacement water supply systems including wells, treatment plants, distribution facilities, etc., shall be designed to prevent infiltration of flood waters into the system;
- (5)** Solid or liquid waste disposal sites or systems shall be designed and located to avoid contamination from them during flooding and to avoid impairment of their

operation during times of flooding;

- (6)** All new construction or any substantial improvement of any residential structure shall have the lowest floor, including all utilities, ductwork and any basement, at an elevation at least one foot above the Base Flood Elevation. Certification that the applicable standards have been satisfied shall be submitted to the Administrator, said certification shall bear the dated seal and signature of a registered professional engineer or registered professional land surveyor on the form provided by the Administrator;
- (7)** All new construction or any substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including all utilities, ductwork and basements, elevated at least one foot above the Base Flood Elevation, or the structure with its attendant utility, ductwork, basement and sanitary facilities shall be flood-proofed so that the structure and utilities, ductwork, basement and sanitary facilities shall be watertight and impermeable to the intrusion of water in all areas below the Base Flood Elevation, and shall resist the structural loads and buoyancy effects from the hydrostatic and hydrodynamic conditions. Certification that the applicable standards have been satisfied shall bear the dated seal and signature of a registered professional engineer on the form provided by the Administrator;
- (8)** For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
- (9)** In areas of special flood hazard where Base Flood Elevations have not been established, Base Flood Elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks, which are greater than 50 lots or 5 acres, whichever is less.
- (10)** In A1-30, AH, and AE Zones [or areas of special hazard], all recreational vehicles to be placed on a site must (i) be elevated and anchored; and (ii) be on the site for less than 180 consecutive days; and (iii) be fully licensed and highway ready.
- (11)** (a) Any new construction, substantial improvement to a structure or fill that encroaches into the Special Flood Hazard Area shall be prohibited unless it can be demonstrated that same will have no adverse impacts as set forth below. Certification of this shall be required as approved by the Administrator based upon a submitted engineering report that includes hydrologic and hydraulic analysis which conform to the requirements of this Chapter and the Bryan College Station Unified Design Guidelines, Standard Details, and Technical Specifications. All submitted information required herein shall bear the dated seal and signature of a registered professional engineer:

 - (1) The engineering report shall demonstrate that such construction, improvement or fill creating the encroachment does not, at any time, cause any of the following upstream, within, near, adjacent, or downstream of such encroachment:

- a) An increase in the Base Flood Elevations. In the event that Base Flood Elevations are not known at the time of submitting the information required herein, Base Flood Elevations must be determined;
 - b) Creation of additional areas of Special Flood Hazard Area;
 - c) A loss of conveyance capacity to that part of the Special Flood Hazard Area that is not in the floodway and where the velocity of flow in the Base Flood event is greater than one foot per second. This area can also be approximated to be either areas within 100 feet of the boundary of the regulatory floodway or areas where the depth of from the BFE to natural ground is 18 inches or greater;
 - d) A loss of Base Flood water storage volume to the part of the Special Flood Hazard Area that is beyond the floodway and conveyance area where the velocity of flow in the Base Flood is equal to and less than one foot per second without acceptable compensation as set forth herein.
Acceptable compensation for the loss of storage volume requires a demonstration of cuts and fills, must be mitigated on-site and must demonstrate no net fill. In general, excavation within the Special Flood Hazard Area and below the Base Flood Elevation is the only acceptable method of mitigation of fill placed below the Base Flood Elevation in the Special Flood Hazard Area; and
 - e) An increase in Base Flood velocities. In the event the Future Conditions Flood data is known at the time of submittal, then the Future Conditions modeling must be used in lieu of the Base Flood modeling.
- (2) In meeting the requirements set forth in II(a)(I) above, if fill is proposed a Certification of Compaction of fill in accordance with FEMA Technical Bulletin 10-01 must be submitted.
- (3) The following are exempt from subparagraph (a)(I) above:
- (a) Lots where the adverse impacts are wholly contained:
 - 1. On the subject property or only impacting the subject property and other property with same ownership,
 - 2. On a property where its owner joins the associated development permit application which causes, quantifies, and outlines the adverse impact defined above,
 - 3. Within a Private Drainage Easement which is specified to be privately owned and maintained, and is recorded at the Brazos County Court House, or
 - 4. Within public Rights-of-way provided other requirements for use and encroachments within public Rights-of-way as set forth elsewhere in this Code of Ordinances are met; or
 - (b) Lots legally platted and recorded at Brazos County Court House prior to the adoption of this ordinance, unless such plat is subsequently replatted, vacated or otherwise altered. However, an amending plat does not remove this exemption.

- (12) For all new construction, substantial improvement to a structure, or fill located within Floodways, the following provisions apply in addition to the requirements of item (1 1) above:
- (1) A variance must be granted; However, proposed street and public utility encroachments shall be exempt from the requirement of a variance provided that provision (2) below is satisfied; and
 - (2) It must be demonstrated as certified by a professional engineer that such construction, improvement or fill encroaching the Floodway does not increase the Base Flood Elevation. Such certification shall bear the dated seal and signature of the professional engineer.
- (13) The following are exempt from both subparagraphs (1 1) and (12) above:
- (a) Customary and incidental routine grounds maintenance, landscaping and home gardening provided same (i) does not increase the Base Flood Elevation; (ii) does not create Areas of Special Flood Hazard upstream, within, nearby or downstream; and (iii) does not require a building permit, zone change request, or variance from the provisions of the Zoning Ordinance;
 - (b) Temporary emergency repairs deemed necessary for the preservation of life, health, or property provided a permanent repair be done as soon as practicable; and provided that to the maximum degree deemed reasonable and prudent by the City such repair is made and maintained so as to minimize increasing water surface elevation and to minimize the creation of additional Areas of Special Flood Hazards. Certification of this shall be required on a form provided by the Administrator based upon a submitted engineering report that includes hydrologic and hydraulic analysis, conforms to the requirements of this Chapter and the BryanICollege Station Unified Design Guidelines, Standard Details, and Technical Specifications, and bears the dated seal and signature of a registered professional engineer; and
 - (c) Temporary excavation for the purpose of maintaining or repairing any public street, public utility facility including service lines related thereto, or any other public infrastructure provided such area of excavation is returned as soon as practicable to its prior condition or better with respect to meeting the requirements set forth in this Section.
- (14) Approved mitigation such as excavation, must be properly approved and occur prior to any approved encroachment or fill is placed in the construction sequencing.

(Ordinance No. 3189 of July 9, 2009)

F. SPECIAL PROVISIONS FOR MANUFACTURED HOMES IN AREAS OF SPECIAL FLOOD HAZARD

The following provisions are required in all Areas of Special Flood Hazard:

- (1) No manufactured home shall be placed in a floodway;
- (2) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement and shall meet the following requirements:
 - (a) over-the-top ties shall be provided at each of the four corners of the manu-

factured homes:

- (b) on manufactured homes of 50 feet in length or less, one additional over-the-top tie shall be provided approximately at the mid point;
 - (c) on manufactured homes of over 50 feet in length, two additional over-the-top ties shall be provided at intermediate locations;
 - (d) frame ties shall be provided at each of the four corners of the manufactured home;
 - (e) on manufactured homes of 50 feet in length or less, four additional frame ties shall be provided at intermediate locations;
 - (f) on manufactured homes of over 50 feet in length, five additional frame ties shall be provided at intermediate locations;
 - (g) all components of the anchoring system for manufactured homes shall be capable of carrying a force of 4800 pounds without sustaining permanent damage.
- (3) For new manufactured home developments; expansions to existing manufactured home developments; existing manufactured home developments where repair, reconstruction, or improvement of the streets, utilities, or building pads exceeds half of the value of the streets, utilities, and building pads before such repair, reconstruction or improvement; and for manufactured homes not placed in a manufactured home development; a registered professional engineer or land surveyor shall certify that the following applicable standards have been satisfied in a manner approved by the Administrator and shall bear the dated seal and signature of such registered professional engineer or land surveyor:
- (a) That stands or lots shall be elevated on compacted fill or on pilings such that the lowest floor of the manufactured home will be one foot above the Base Flood Elevation and the elevation of the center of the stand shall be no more than one foot below the Base Flood Elevation.
 - (b) adequate surface drainage and access for a hauler shall be provided.
 - (c) if a manufactured home is elevated on pilings: 0) lots shall be large enough to permit steps;
 - (ii) piling foundations shall be placed in stable soil no more than ten feet apart;
 - (iii) reinforcement shall be provided for pilings more than six feet above the existing or finished ground level."

(Ordinance No. 3189 of July 9, 2009)

G. SPECIAL PROVISIONS FOR FLOODWAYS

Located within the Areas of Special Flood Hazard established in Section 5-B are areas designated as Areas of Shallow Flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the pathway of flood waters is indeterminate and unpredictable; therefore, the following provisions shall be required:

- (1) All new construction or any substantial improvement of any residential structure shall have the lowest floor, including basements, elevated at least one foot above the depth number specified on the community's FIRM.
- (2) All new construction or any substantial improvement of any commercial, industrial, or other non-residential structure shall:

- (a) Have the lowest floor, including basements, elevated at least one foot above the depth number specified on the community's FIRM; or
 - (b) The structure with its attendant utility and sanitary facilities shall be floodproofed so that the structure and utility and sanitary facilities shall be watertight and impermeable to the intrusion of water in all areas below the Base Flood Elevation, and shall resist the structural loads and buoyancy effects from hydrostatic and hydrodynamic conditions. A registered professional engineer shall certify that this standard has been satisfied in a manner approved by the Administrator and shall bear the dated seal and signature of such registered professional engineer.
- (3) Adequate drainage paths to guide floodwaters around and away from proposed structures shall be provided for all proposed structures on slopes in Zones AH or AO."

(Ordinance No. 3189 of July 9, 2009)

H. Deleted

(Ordinance No. 3189 of July 9, 2009)

SECTION 6: VARIANCES

A. GENERAL

The Zoning Board of Adjustments may authorize a variance to the provisions and requirements of this chapter when, in their opinion, undue hardship on the owner will result from strict compliance with those requirements, and when either of the following criteria are met:

- (1) There are special circumstances or condition affecting the land involved such that strict compliance with the provisions and requirements of this chapter will deprive the applicant of the reasonable use of his land; or,
- (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant; or,
- (3) 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 section.

(Ordinance No. 2277 of November 13, 1997)

B. PREREQUISITES FOR GRANTING OF VARIANCES

Upon consideration of the factors noted above, the specific provisions and requirements of this chapter, and the intent of this chapter, the Board may grant variances subject to the following prerequisites:

- (1) A variance shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, or potential flood damage, to afford relief to the applicant;
- (2) The effect of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the City;
- (3) The effect of the variance will not increase water surface elevations, flow velocities, or alter drainage pathways to the extent that there will be any threat to public safety, extraordinary public expense, increase in nuisance flooding, or be detrimental to other portions of the major or minor drainage systems;
- (4) The effect of the variance will not prevent the orderly subdivision of other land, upstream or downstream of the subject property, in the City, and;
- (5) No variance shall be allowed within any designated floodway if any increase in water surface elevation would occur during the base flood discharge.
- (6) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria and procedures outlined in this Section for obtaining a variance are met, and (ii) the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

C. VARIANCE PROCEDURES

The granting of variances shall be subject to and in conformance with the following procedures and requirements:

- (1) The Zoning Board of Adjustments shall hear and render judgment on any requests for variances from the requirements of this chapter.
- (2) The Administrator shall maintain a record of all actions involving appeals, and variance requests, and shall report all variances to the requirements of this chapter to the Federal Insurance Administration upon request.

- (3) Upon consideration of the above criteria, and prerequisites, and the intent of this chapter, the Board may attach such conditions to the granting of any variance as it deems necessary to further the purpose and objectives of this chapter.
- (4) All requests for variance shall be judged solely on the merits and special conditions of the case. The granting of a variance based upon the facts and evidence of one request for variance shall have no bearing on the consideration of any other request for variance.
- (5) Before consideration by the Board, a formal request for variance shall be submitted to the office of the Administrator. The request shall contain sufficient information to:
 - (a) define specifically which provision or requirement according to this chapter that allegedly causes the undue hardship;
 - (b) detail specifically what measures shall be taken to obtain the minimum relief from said hardship;
 - (c) define specifically the effects of the variance in terms of water surface elevations, flood velocities, etc. which pertain to the prerequisites required by this chapter; and
 - (d) identify any special conditions which should be considered as criteria for granting said variance.

After review of the request, the Administrator may require additional information which he/she deems necessary to fully document the prerequisites required by this chapter for the granting of a variance. This information shall be provided by the applicant prior to placement of the variance request on the agenda for consideration by the Board.

- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation no more than 3 feet 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.
- (7) Any person or persons aggrieved by the decision of the Zoning Board of Adjustments may appeal such decision to the courts of competent jurisdiction.

SECTION 7: ENFORCEMENT AND PENALTIES

A. NOTIFICATION OF NONCOMPLIANCE

If at any time development, as defined by this chapter, takes place for which an approved development permit has not been issued, or development occurs which does not conform to the plans and specifications upon which the issued development permit was based, the Administrator shall issue a written Notice of Noncompliance to the owner. The notice shall include a description of the nature and location of each alleged violation of this chapter, and, if readily apparent, the measures required to bring the development into compliance with the provisions and requirements of this chapter. The notice shall give a specific time allowance to the owner during which he must take one of the following steps to bring the development into compliance with this chapter:

- (1) An acceptable application for a development permit must be filed with the office of the Administrator for the entire scope of development taking place or proposed for the site;
- (2) The item or items which are not in compliance with the terms, conditions, and provisions of this chapter shall be corrected, added, or improved until they are in compliance with this chapter, at which time the owner shall request, in writing, a reinspection by the Administrator;
- (3) Modified construction plans shall be submitted to the Administrator which detail, in an acceptable manner, the remedial, additional, or corrective measures which must be taken to bring the development within the provisions and requirements of this chapter; or
- (4) An acceptable variance request, subject to the provisions of this chapter, shall be submitted to the office of the Administrator which shall have the effect, if granted, of removing the requirements for which the development was determined to be in noncompliance.

The time allotment for these actions shall be reasonable, and shall be determined according to the number, nature, and severity of the noncomplying items. In no case shall that time period exceed thirty (30) calendar days from the date of notification. If, in the opinion of the Administrator, a condition exists which is hazardous to the immediate safety of the public, he may seek remedies outside the scope of this section.

B. REVOCAION OR SUSPENSION OF DEVELOPMENT PERMIT

Upon expiration of the time allotment for remedial or corrective measures, the Administrator shall take one of the following courses of action;

- (1) If, in the opinion of the Administrator, the owner has made, or is making, a good faith effort to remedy the offending situation, the Administrator may extend the time allotment previously granted if such extension is requested by the owner, or
- (2) Where an approved development permit has been issued for the development, the Administrator shall suspend the development permit. Written notice of said suspension, along with the terms and requirements for reinstating the development permit, shall be delivered to the owner.

Upon suspension of a development permit, all portions of the work being done on the property that are regulated by this chapter shall cease. These activities include, but are not limited to grading, excavation, fill, berming, stripping, clearing, paving, placement of any storm sewer, drainage structure, inlet, or appurtenance thereto; any work within a defined Area of Special Flood Hazard, or placement of any structure, temporary or permanent, or any obstruction within the Area of Special Flood Hazard.

Upon finding no approved development permit exists for the work or property in question or suspending an existing approved development permit, the Administrator shall issue a stop work

order for all items of work on the subject property covered by this or other ordinances, any work permitted, licensed, or otherwise regulated by the City, or any work subject to inspection or approval by the City. The Administrator may enter property to inspect and verify that the requirements of this ordinance are being met.

All notices required by this section shall be served upon the parties concerned either personally or by certified mail, addressed to the individual contracting parties, or permit holder, at the address given on the permit application.

(Ordinance No. 1728 of October 22, 1987)

C. PENALTY IMPOSED

Upon the finding of a violation of this ordinance, the Administrator may file a complaint in the Municipal Court of the City of College Station against any person, firm, corporation, or other legal entity. In the event that the judge finds any person, firm, corporation, or other legal entity to be in violation of the terms, conditions, or requirements of this chapter, or provisions or conditions pursuant thereto, he shall find said person firm, corporation, or other legal entity guilty of a misdemeanor; and upon conviction shall impose a fine pursuant to the General Penalty set out in Chapter 1, Section 5, of this Code of Ordinances. Prosecution under this provision shall not be a bar to any other relief for violation of this chapter.

(Ordinance No. 2030 of September 9, 1993)

D. FINE NOT EXCLUSIVE PENALTY

In addition to a fine, the City may institute appropriate actions or proceedings at law or equity for the enforcement of the provisions of this chapter or Bryan/College Station Unified Design Guidelines, Standard Details, and Technical Specifications, or to correct violations thereof, and, if applicable, appropriate actions or proceedings at law or equity against any surety company, escrow holder, or any third party who has affirmatively acted as surety or guarantor for the faithful performance of the permit holder's work.

(Ordinance No. 2950 of January 11, 2007)