

CITY OF ROCKWALL

ORDINANCE NO. 08-44

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROCKWALL IN CHAPTER 11 FLOOD HAZARD DAMAGE PREVENTION AND CONTROL; PROVIDING FOR A PENALTY OF A FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED ON EACH DAY DURING OR ON WHICH A VIOLATION OCCURS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS:

**Section 1.** That the Code of Ordinances of the City of Rockwall shall be amended in Chapter 11, entire chapter, which shall hereinafter read in its entirety as set forth in **Exhibit "A"** attached hereto made a part hereof for all purposes.

**Section 2.** Any person, firm or corporation violating any of the provisions of this ordinance shall be punished by a penalty of fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense and each and every day such offense shall continue shall be deemed to constitute a separate offense.

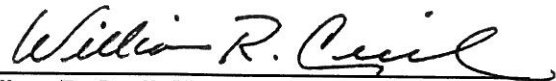
**Section 3.** If any section or provision of this ordinance or the application of that section or provision to any person, firm, corporation, situation or circumstance is for any reason judged invalid, the adjudication shall not affect any other section or provision of this ordinance or the application 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 and applications of the ordinance without the invalid parts and to this end the provisions of this ordinance shall remain in full force and effect.

**Section 4.** This ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this ordinance.

**Section 5.** That this ordinance shall take effect immediately from and after its passage and approval, and it is so ordained.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ROCKWALL, TEXAS, this 2<sup>nd</sup> day of September, 2008.**

ATTEST:

  
William R. Cecil, Mayor

  
Kristy Ashberry, City Secretary

APPROVED AS TO FORM:  
  
Pete Eckert, City Attorney



1<sup>st</sup> Reading: 08-18-08  
2<sup>nd</sup> Reading: 09-02-08

**“EXHIBIT A”**

**Chapter 11**

**FLOOD HAZARD DAMAGE PREVENTION AND CONTROL**

<b>Art. I.</b>	<b>In General, 11-1 to 11-25</b>
<b>Art. II.</b>	<b>Administration and Enforcement, 11-26 to 11-50</b>
<b>Art. III.</b>	<b>Provisions for Flood Hazard reduction, 11-51 to 11-61</b>

**ARTICLE I. IN GENERAL**

**Sec. 11-1. STATUTORY AUTHORIZATION**

The Legislature of the State of Texas has, in the Flood Control and Insurance Act, Subchapter I of Chapter 16 of the Texas Water Code, authorized and delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Rockwall, Texas, does ordain as follows:

**Sec. 11-2. FINDINGS OF FACT**

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

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, by increased storm water runoff due to modifications within the watersheds of the City, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

**Sec. 11-3. STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to help:

- (1) Protect human life and health;

- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) 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
- (7) Insure that potential buyers are notified that property is located within an area that has been determined to be a flood hazard area.

**Sec. 11-4. METHODS OF REDUCING FLOOD LOSSES**

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

- (1) 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;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers, dams, and levees which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(6) Control the alteration of man-made improvements which are constructed for the purpose of reducing flood losses or are involved in the accommodation of flood waters.

## **Sec. 11-5. DEFINITIONS**

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.

**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.

**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 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.

**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.

**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).

**FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.

(2) 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 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*

**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.

**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.

**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.

**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.

**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."

**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.)

**VIOLATION** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) 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 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**WATERSHED** - often considered synonymously with the terms "drainage basin" and "catchment area", means the total area of land contributing storm water runoff to some point of reference, such as the outlet of a stream.

**Sec. 11-6. LANDS TO WHICH THIS ORDINANCE APPLIES**

The ordinance shall apply to all areas within the jurisdiction of the City of Rockwall, Texas.

**Sec. 11-7. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Rockwall County, Texas, and Incorporated Areas," dated September 26, 2008, with accompanying Flood Insurance Rate Maps (FIRM) dated September 26, 2008, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

**Sec. 11-8. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

**Sec. 11-9. 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.

**Sec. 11-10. 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.

**Sec. 11-12. 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.

**Sec. 11-13. WARNING AND DISCLAIMER OR 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.

**Sec. 11-14 to Sec. 11-25. Reserved.**

## **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

### **Sec. 11-26. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The City Engineer 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.

### **Sec. 11-27. DUTIES & 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 to ensure that the proposed building site project, 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 Texas Water Development Board (TWDB), or any future successor(s) of the State Coordinating Agency, 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 Article I, Sec. 11-7, 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 Article III. The Floodplain Administrator may also require that an independent flood study be performed for any proposed construction or development to determine or to verify base flood elevation data, floodway data, and flow velocities, and to determine any adverse impacts, if any, that the proposed construction or development may cause on base flood elevations, floodways, and flow velocities.

(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 a Zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community, and it is demonstrated that Special Flood Hazard Reduction Provisions of Article III, Sec. 11-56, are fulfilled.

(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 AE and AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that all of the provisions required by Section 65.12 are **first** completed, and provided that Special Flood Hazard Reduction Provisions of Article III, Sec. 11-56, are fulfilled.

(11) When a regulatory floodway has been designated, the Floodplain Administrator must prohibit encroachments, 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, with the exception that the City of Rockwall may permit encroachments within the

adopted regulatory floodway that would result in an increase in base flood elevations, **provided** that Special Flood Hazard Provisions of Article III, Sec. 11-56, are fulfilled and that, prior to any development, including clearing, grading, filling, construction, and placement of any obstructions, an application for a conditional FIRM and floodway revision is submitted to FEMA for review, that the requirements for such revisions to base flood elevations and floodway data as established under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations are fulfilled, and that approval of the application for the conditional FIRM is received.

### **Sec. 11-28. PERMIT PROCEDURES**

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her. The Applicant shall confer with the Floodplain Administrator to determine information required to be included within the application, which 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, any proposed clearing, grading, filling, or construction, and the location of the foregoing in relation to areas of special flood hazard, including locations of existing and proposed modified base flood elevations and flood boundaries. Additionally, the following information is required:

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

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

(c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article III, Sec. 11-52 (2);

(d) Description of the extent to which any watercourse, or natural drainage, or any improvements involved in the accommodation or control of flood waters will be altered or relocated as a result of proposed development;

(e) Maintain a record of all such information in accordance with Article II, Sec. 11-27 (1); and,



(f) Documentation to verify that the development will be in full compliance with all Federal, State, and local laws or ordinances.

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on, but not be limited to, all of the provisions of this ordinance and the following relevant factors:

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

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

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

(d) The compatibility of the proposed use with existing and anticipated development;

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

(f) 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;

(g) 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;

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

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

(j) Full compliance with all Federal, State, and local laws or ordinances.

#### **Sec. 11-29. VARIANCE PROCEDURES**

(1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.

(2) 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.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(4) 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.

(5) 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.

(6) 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 (Article I, Sec. 11-3).

(7) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. Any such increase in base flood elevations resulting from encroachment, construction, or development within a designated floodway may be approved provided that requirements of 44 CFR Chapter 1, Section 60.3(d)(4) of the National Flood Insurance Regulations and the Special Flood Hazard Reduction Provisions of Article III, Sec. 11-55, and the provisions of Article II, Sec. 11-27 (11), are fulfilled.

(8) 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.

[9) Prerequisites for granting variances:

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

(b) 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 Federal, State, or local laws or ordinances.

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

**Sec. 11-30 to Sec. 11-50. Reserved.**

## **ARTICLE III. PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **Sec. 11-51. GENERAL STANDARDS.**

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

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

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

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

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) 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,

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

### **Sec. 11-52. SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article I, Sec. 11-7, (ii) Article II, Sec. 11-27 (8), or (iii) Article III, Sec. 11-53 (3), the following provisions are required:

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated a minimum of 2.0 feet above the base flood elevation

caused by discharges resulting from a fully-developed watershed. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article II, Sec. 11-28 (1) a., is satisfied.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated a minimum of 2.0 feet above the base flood elevation caused by discharges resulting from a fully-developed watershed, or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to a minimum height of 2.0 feet above base flood elevations determined with discharges resulting from a fully-developed watershed, 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 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.

(3) **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 registered professional engineer or architect or meet or exceed the following minimum criteria:

(a) 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.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

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

**(4) Manufactured Homes -**

(a) 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 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) Require that manufactured homes that are placed or substantially improved within Zone AE and AH 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 a minimum of 2.0 feet above the base flood elevation caused by discharges resulting from a fully-developed watershed and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones AE and AH on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) the lowest floor of the manufactured home is a minimum of 2.0 feet above the base flood elevation caused by discharges resulting from a fully-developed watershed , 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 be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

**(5) Recreational Vehicles -** Require that recreational vehicles placed on sites within Zones AE and AH 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 Article II, Sec. 11-28 (1), and the elevation and anchoring requirements for "manufactured homes" in

paragraph (4) 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.

**Sec. 11-53. STANDARDS FOR SUBDIVISION PROPOSALS**

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article I, Sec. 11-2, Sec. 11-3, and Sec. 11-28 of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article I, Sec. 11-8; Article II, Sec. 11-28; and the provisions of Article III of this ordinance.

(3) 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 5 lots or 1 acre, whichever is lesser, if not otherwise provided pursuant to Article I, Sec. 11-7 or Article II, Sec. 11-27 (8) of this ordinance.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) 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.

(6) All subdivision proposals shall include a map of the subdivision, drawn to scale, indicating existing and proposed revisions to flood boundaries and floodway boundaries, based on the base flood discharges for both existing and projected fully-developed watershed conditions.

**Sec. 11-54. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES AND OTHER AREAS NOT DESIGNATED AS SPECIAL FLOOD HAZARD AREA)**

Located within the areas of special flood hazard established in Article I, Sec. 11-7, 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:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated a minimum of 2.0 feet above the base flood elevation caused by discharges resulting from a fully-developed watershed 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), whichever is greater.

(2) All new construction and substantial improvements of **non-residential** structures;

(a) have the lowest floor (including basement) elevated a minimum of 2.0 feet above the base flood elevation caused by discharges resulting from a fully-developed watershed or the highest adjacent grade at least 2.0 feet higher than the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), whichever is greater, or

(b) 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, 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.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article II, Sec. 11-28 are satisfied.

(4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

Located within areas not designated as Special Flood Hazard Area on the community's FIRM are areas that may be susceptible to potential flood damage resulting from shallow or concentrated flooding. For these areas, adequate drainage shall be provided to prevent flood damages to all new and substantially improved structures.



## **Sec. 11-55. FLOODWAYS**

Floodways - located within areas of special flood hazard established in Article I, Sec. 11-7, 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:

(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 community during the occurrence of the base flood discharge. Procedures for these analyses that are performed to demonstrate compliance with this section shall, at a minimum, be based on those contained in 44 CFR Chapter 1, Sections 65.5, 65.6, and 65.7. Other analyses, at the discretion of the Floodplain Administrator, may be required.

(2) If Article III, Sec. 11-55 (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article III.

(3) 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 all of the provisions required by Section 65.12 are **first** completed, and provided that Special Flood Hazard Reduction Provisions of Article III, Sec. 11-56, and the provisions of Article II, Sec. 11-27 (11) are fulfilled.

## **Sec. 11-56. SPECIAL FLOOD HAZARD REDUCTION PROVISIONS**

Notwithstanding any other provisions of this ordinance, the following special flood hazard reduction provisions shall apply. A registered engineer must submit a certification with supporting flood study documentation to the Floodplain Administrator, in accordance with Article III, Sec. 11-58, certifying compliance with these provisions.

- (1) **Flood Detention/Retention** - All non-residential and in some cases residential developments shall provide flood detention/retention, or other flood reduction methods approved by the City of Rockwall, to ensure that no increase in peak flood discharges leaving the developed area will occur.

- (2) **Increases in Base Flood Elevations** - For all proposed developments, no increases in existing base flood elevations, nor any increases in projected future base flood elevations when assuming a fully-developed watershed, shall be allowed on property owned by others, unless the Floodplain Administrator has been provided sufficient documentation, certified by a registered engineer in accordance with Article III, Sec. 11-58, indicating that such increases do not cause any unacceptable and significant adverse impact to property owned by others.
- (3) **Development within the Squabble Creek Watershed** - Any proposed development within the Squabble Creek Watershed must include flood reduction methods, such as flood detention, necessary to prevent any increases in flood peak discharges leaving the proposed developed area and to prevent any increases in flood discharges and flood levels along the reach of Squabble Creek between Caruth Lake Dam and Lake Ray Hubbard.
- (4) **Other Flood Hazard Considerations** - In addition to compliance with minimum floor elevations and other elevation requirements specified in this ordinance, design and construction of any new development or any substantial improvement shall consider circumstances that may potentially cause greater base flood elevations and discharges (under fully-developed watershed conditions) than those normally expected to occur , including, but not limited to, the potential for obstructions to flow during stormwater runoff events through hydraulic structures and drainageways, unavailability of flood detention storage provided by floodwater retarding structures due to delayed stormwater dewatering, failure or breach of embankments that provide temporary or permanent impoundment of stormwater, and other malfunctions to hydraulic structures that may prevent them from operating properly or to fail.

#### **Sec. 11-57. REVIEW OF PROPOSED PROJECTS**

Permit applications shall be reviewed and approved by the Floodplain Administrator or his/her designee prior to authorizing any construction on a proposed project that may potentially cause any increased flooding to any area located within the City of Rockwall's jurisdiction and adjacent communities. Under provisions of 44 CFR Chapter 1, Section 65.8, the City or individual

acting on behalf for the City may request a review and comment by the Federal Emergency Management Agency regarding whether a proposed project would justify a revision to the Flood Insurance Rate Map. Additionally, the City of Rockwall reserves the right to request a review of a proposed project from any other Federal, State, or local government that may have jurisdiction over, or may be impacted by, the proposed project. For purposes of this Section, “construction” includes clearing, grading, filling, placement of any obstruction within the floodplains, and any alterations to existing man-made improvements which are constructed or used for the purposed of reducing flood losses or are involved in the accommodation of flood waters.

**Sec. 11-58. ENGINEERING STANDARDS**

Any required hydrologic or hydraulic analyses performed to satisfy requirements of this ordinance shall be certified by an engineer who is registered in the State of Texas and who is qualified by education and expertise to perform these analyses in an adequate and competent manner, using procedures which are considered current standard engineering practice. At the very minimum, the procedures used in these analyses shall be generally acceptable by the Federal Emergency Management Agency and be within the provisions of 44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations).

**Sec. 11-59. SEVERABILITY**

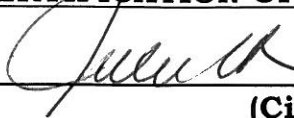
If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Sec. 11-60. PENALTIES FOR NON COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order 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, firm or corporation who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2000 for each violation, and in addition shall pay all costs and expenses involved in the case, with each and every day that any such violation is continued deemed to constitute a new and separate violation. Nothing herein contained shall prevent the City of Rockwall from taking such other lawful action as is necessary to prevent or remedy any

violation.

**Sec. 11-61. CERTIFICATION OF ADOPTION**

**APPROVED:**   
(City Manager)

**PASSED:** September 2, 2008  
(adoption date)

**ORDINANCE BECOMES EFFECTIVE:** September 2, 2008

I, the undersigned, Kristy Ashberry, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City Council of City of Rockwall, Texas, at a regular meeting duly convened on 09/02/08.



{SEAL}