

**ORDINANCE NO. 254-87-04-28**

AN ORDINANCE KNOWN AS THE FLOOD DAMAGE PREVENTION ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS; PROVIDING FOR THE ADOPTION OF CERTAIN REGULATIONS FOR THE MINIMIZATION OF PUBLIC AND PRIVATE LOSSES DUE TO FLOODING; DEFINING CERTAIN TERMS; PROVIDING FOR ADMINISTRATION; REQUIRING A DEVELOPMENT PERMIT; PROVIDING FOR VARIANCES FROM THE REQUIREMENTS OF THIS ORDINANCE; ESTABLISHING STANDARDS; ESTABLISHING FEES; PROVIDING FOR PENALTY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION OF NOTICE OF THIS ORDINANCE; PROVIDING FOR INTERPRETATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the legislature of the State of Texas has delegated the responsibility to local governmental entities to adopt regulations design to minimize flood losses; and

WHEREAS, the flood hazard areas of the City of Pflugerville are subject to periodic inundation which may result in the 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; and

WHEREAS, such flood losses are caused by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by land uses that are situated in flood hazard areas and that are vulnerable to floods as a result of inadequate elevation or floodproofing measures; and

WHEREAS, 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: (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, and streets and bridges located in floodplains; (6) help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and (7) insure that potential buyers are notified that property is in an area of special flood hazard; and

WHEREAS, the reduction of flood losses may be accomplished by: (1) restriction or prohibition of land uses that, during times of flood, result in danger to health, safety, or property or cause excessive increases in flood heights or velocities; (2) requiring that land uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; (3) controlling the alteration of natural floodplains, stream channels, and natural protective barriers that are involved in the accommodation of flood waters; (4) controlling filling, grading, dredging, and other development which may increase flood damage; and (5) preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

Part 1: GENERAL

Section 1.1 Title. This ordinance shall be known, and may be cited, as the Flood damage prevention ordinance of the City of Pflugerville, Texas.

Section 1.2 Definitions.

(a) For the purpose of this ordinance, the following terms and words are defined as indicated below:

(1)“Appeal” means a request for a variance from the requirements of this ordinance or for the review of an interpretation made by the Floodplain Administrator of any provision of this ordinance.

(2) “Area of Shallow Flooding” means a Zone designated as AO, AH, or VO on a community’s Flood Insurance Rate Map (FIRM) and having a one (1%) percent or greater chance of flooding to an average depth of one (1) to three (3) feet in any given year. An Area of Shallow Flooding does not have a clearly defined channel, does have an unpredictable path of flooding, may show evidence of a velocity flow, and may have flooding characterized by ponding or sheet flow.

(3) “Area of Special Flood Hazard” means any land situated in floodplain subject to a one (1%) percent or greater chance of flooding in any given year. Such 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, A1-99, VO, V1-30, VE, or V.

(4) “Base Flood” means a flood having a one (1%) percent chance of being equaled or exceeded in any given year.

(5) “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.

(6) “Development” means any manmade change in improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(7) “Elevated Building” means with reference to Zones:

(A) A1-A30, AE, A, A99, AO, AH, B, C, X, and D, a nonbasement building with the top of the elevated floor elevated above ground level by means of: (i) pilings, columns (posts and piers), or shear walls parallel to the floor of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood; or (ii) fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

(B) V1-30, VE, or V, a nonbasement building with the bottom of the lowest horizontal structure member of the elevated floor elevated above ground level by means of: (i) pilings, columns (posts and piers), or shear walls parallel to the floor of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood; or (ii) with the lower area enclosed by means of breakaway walls if the breakaway walls meet the standards of § 60.3 (e) (5) of the National Flood Insurance Program regulations.

(8) “Existing Construction” or “Existing Structures” mean, for the purposes of determining flood insurance 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.

(9) “Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

(10) “Flood Hazard Boundary Map” or “FBHM” means an official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

(12) “Flood Insurance Study” means the official report provided by the Federal Emergency Management Agency containing flood profiles, water surface elevations of the base flood, as well as the Flood Boundary-Flood Hazard Map.

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

(14) “Flood Protection System” means those physical structural works, such as hurricane tidal barriers, dams, reservoirs, levees, or dikes, for which funds have been authorized, appropriated, and expended and which have been constructed in conformance with sound engineering standards specifically to modify flooding and to reduce the extent of the areas within a community subject to “special flood hazard” and depths of associated flooding.

(15) “Floodway” or “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.

(16) “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 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.

(17) “Highest Adjacent Grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(18) “Levee” means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering standards, to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(19) “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.

(20) “Lowest Floor” means the lowest floor of the lowest enclosed area of a building, including the basement. An unfinished or flood-resistant enclosure, useable 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 an enclosure is not built so as to render a structure in violation of the applicable non-elevation design requirement of § 60.3 of the National Flood Insurance Program regulations.

(21) “Manufactured Home” means a structure transportable in one (1) 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. 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 one hundred and eighty (180) consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

(22) “Mean Sea Level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s FIRM are referenced.

(23) “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.

(24) “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 of issuance of a building permit, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred and eighty (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 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; the installation of streets and/or walkways; the excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor 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.

(25) “Structure” means a walled and roofed building situated principally above ground and includes manufactured homes and gas or liquid storage tanks.

(26) “Substantial Improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (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 purpose 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 project 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 alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(27) “Variance” means relief from the requirements of this ordinance when specific enforcement would result in unnecessary hardship, thereby permitting construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see §60.6 of the National Flood Insurance Program regulations).

(28) “Violation” means the failure of a structure or other development to be fully in compliance with the community’s floodplain management regulations. A structure or other development without an elevation certificate or other required certifications or evidence of compliance, as required in §§60.3 (b) (5), (c) (4), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) of the National Flood Insurance Program regulations, are presumed to be in violation until such time as the required documentation is obtained.

(29) “Water Surface Elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, where specified, of floods of various magnitude and frequencies in the flood plains of coastal or riverine areas.

(b) Terms not defined herein shall be construed in accordance with customary usage.

## PART 2: ADMINISTRATION.

Section 2.1 Application of Regulations. The regulations set out in this ordinance shall apply to all areas of special flood hazard within the corporate limits of the City of Pflugerville.

Section 2.2 Basis for Establishing Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study, City of Pflugerville, Travis County, Texas” dated November 1977, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps, and any revisions thereto, are hereby adopted by reference and declared to be part of this ordinance.

Section 2.3 Compliance. No structure or tract of land shall hereafter be located, altered, or have its use changed without full compliance with the provisions of this ordinance and other applicable regulations.

## Section 2.4 Enforcement.

(a) The Building Official is hereby designated as the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

(b) Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

(1) maintenance and holding open for public inspection all records pertaining to the provisions of this ordinance;

(2) review of permit applications to determine whether proposed building sites are reasonably safe from flooding;

(3) review, approval, or denial of all applications for development permits required by this ordinance;

(4) review of all permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including §404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;

(5) interpretation of the exact location of the boundaries of areas of special flood hazard, when in question;

(6) notification, in riverine situations, of adjacent communities and the Texas Water Commission prior to any alteration or relocation of a watercourse and submission of evidence of such notification to the Federal Emergency Management Agency;

(7) ascertainment that the flood carrying capacity within any altered or relocated portion of a watercourse has been maintained; and

(8) obtainment, review, and utilization of any base flood elevation data and floodway data available from federal, state, or other sources, in order to administer the provisions of this ordinance, if such information is not identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map of the City of Pflugerville.

(9) requiring, when a regulatory floodway has not been designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE in 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 (1) foot at any point within the community.

### PART 3: DEVELOPMENT PERMITS.

#### Section 3.1 Permit Application.

(a) Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by the City Secretary.

(b) A Development Permit Application shall be accompanied by:

(1) payment of the fee set out in Part 6 of this ordinance;

(2) two (2) sets of site plans drawn to scale including the following:

(A) location, dimensions, and elevation of all proposed landscape alterations, and existing and proposed structures, and their location in relation to areas of special flood hazard;

(B) elevation in relation to mean sea level: (i) of the lowest floor, including the basement, of all new and substantially improved structures; and (ii) to which any nonresidential structure is proposed to be floodproofed;

(3) certification from a registered professional engineer or architect that the structural design, specifications, and plans for the construction of any nonresidential structure is in accordance with the floodproofing criteria set out in § 5.2 (b) of this ordinance; and

(4) description of the extent to which any watercourse or natural drainage is proposed to be altered or relocated as a result of the proposed development.

(c) The Floodplain Administrator shall maintain detailed written records of each development permit application.

Section 3.3 Basis for Granting Permit. The decision of the Floodplain Administrator to either approve or deny an application for a Development Permit shall be based on compliance with the provisions of this ordinance and on the following additional factors:

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

(2) susceptibility of the proposed structure and its contents to flood damage and the effect of such damage on the individual owner;

(3) danger that material may be swept away from the site onto other property resulting in possible injury;

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

(5) accessibility to the property in times of flood for ordinary and emergency vehicles;

(6) costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;

(7) expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and effects of wave action, if applicable, expected at the site;

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

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

(10) relationship of the proposed use to the city's comprehensive plan for that area.

#### PART 4: APPEALS.

Section 4.1 General. The Board of Adjustment shall hear and decide appeals under this ordinance.

Section 4.2 Basis. Written appeals may be made to the Board of Adjustment on the following basis:

(1) Where it is alleged there is an error in any order, requirement, decision, or determination made by the Floodplain Administrator in the enforcement of this ordinance.

(2) To authorize in specific cases such variances from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

#### Section 4.3 Procedure.

(a) A written application for appeal to the Board of Adjustment must be taken within fifteen (15) days after the decision has been rendered by the Floodplain Administrator. The application shall be filed with the City Secretary, specifying the grounds therefore, and shall be accompanied by payment of a fee as prescribed in Part 6, hereof.

(b) The Floodplain Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

#### Section 4.4 Hearing.

(a) The Board shall hold a public hearing on all appeals made to it. Written notice of such public hearing shall be sent to the applicant and may be sent to all other persons deemed by the Board or the City Administrator, or his/her designate, to be affected thereby.

(b) Required notice shall be given not less than fifteen (15) days before the date set for hearing. The notice may be served by depositing same, properly addressed, postage paid, into a U.S. Post Office mail depository box.

(c) Notice shall also be given by publishing the notice in the official newspaper of the City at least one (1) time and at least fifteen (15) days prior to the date set for the hearing, stating the time and place of such hearing.

(d) At the public hearing relative to any appeal, any interested party may appear in person, by agent, or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the Board on any appeal. Any interpretation or variance granted or authorized by the Board under the provisions of this ordinance shall authorize the issuance of a development permit in accordance with the interpretation or variance, provided that all other requirements of the flood damage prevention ordinance are met.

Section 4.5 Stay. An appeal, properly filed as herein provided, shall stay all development proceedings in furtherance of the action appealed from, unless the Floodplain Administrator shall certify to the Board that, by reason of facts stated in said certificate, a stay would, in his opinion, cause imminent peril to life or property. In the event of such exemption from a stay, development proceedings shall not be stayed except by a restraining order by a Court of record properly ordering same.

Section 4.6 Decision of Board.

(a) The Board shall decide the appeal within forty-five (45) days from the date of its filing with the City Secretary.

(b) The following factors should be considered by the Board in making its determination on any appeal:

(1) Variances for reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, may be granted without regard to the qualifications set forth in the remainder of this subsection;

(2) the provisions of § 3.3, hereof, should be considered for variances requested for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level; provided however, that as the lot size

increases beyond one-half (1/2) acre, the technical justification required for issuing the variance should increase;

(3) a variance should not be granted within a designated floodway if any increase in flood levels during the base flood discharge, or if any additional threats to public safety, would result;

(4) only the minimum variance required to afford relief to the applicant should be granted; and

(5) the granting of a variance should not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Floodplain Administrator, to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variance in said ordinance.

(d) Any applicant to whom a variance is granted shall be given written notice of the decision of the Board and shall be notified that the cost of flood insurance will no doubt increase commensurate with the increased risk resulting from any such variance.

#### Section 4.7 Appeal of Board's Decision

(a) Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer or board of the municipality may present to a court or jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality.

(b) The petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board and not thereafter.

Section 4.8 Report to Federal Emergency Management Agency. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report any variance granted by the Board to the Federal Emergency Management Agency upon request.

### PART 5: PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 5.1 General Standards. In all areas of special flood hazard the following general standards shall be required:

(a) All new construction and substantial improvements shall be:

(1) 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) constructed:

(A) by methods and practices that minimize flood damage;

(B) with materials resistant to flood damage; and

(C) 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.

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

(c) 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.

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

Section 5.2 Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in: §§ 2.2, 2.4 (b) (8), 5.3 (b), the following standards shall be required:

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied.

(b) New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including the basement, elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level of the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such

certification which includes the specific elevation in relation to mean sea level to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(c) Manufactured Homes shall be located within Zone A and shall be installed using methods and practices which minimize flood damage. For the purpose 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 all applicable state and local anchoring requirements for resisting wind forces and the provisions of § 5.2 (a), above.

### Section 5.3 Standards for Proposed Subdivisions.

(a) All proposed subdivisions, including manufactured home parks, shall:

- (1) be in conformance with the provisions of this ordinance;
- (2) have adequate drainage measures in order to reduce exposure to flood hazards; and
- (3) have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed so as to minimize or eliminate flood damage.

(b) Base flood elevation data shall be required for any proposed subdivision, including manufactured home parks, that are greater than five (5) acres in size or that have more than fifty (50) lots.

Section 5.4 Standards for Areas of Shallow Flooding. Located within the areas of special flood hazard established in § 2.2, hereof, are areas designated as areas of shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flow is unpredictable, where velocity flow may be evident, and where flooding is characterized by ponding or sheet flow. The following provisions shall apply to areas of shallow flooding:

(a) All new construction and substantial improvements of residential structures shall have the lowest floor, including the basement, elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the community's FIRM or at least two (2) feet if no depth number is specified on the FIRM.

(b) All new construction and substantial improvements of nonresidential structures shall:

- (1) have the lowest floor, including the basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the

community's FIRM or at least two (2) feet if no depth number is specified on the FIRM;  
or

(2) together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(c) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section are satisfied.

(d) Drainage paths around structures situated on slopes shall be required within Zones AH or AO to guide flood waters around and away from such structures.

Section 5.5 Floodways. Located within areas of special flood hazard established in § 2.2, hereof, are areas designated as floodways which have a high erosion potential and are extremely hazardous due to the velocity of their flood waters which carry debris and potential projectiles. The following provisions shall apply to floodways :

(a) Encroachments shall be prohibited, including fill, new construction, substantial improvements, and other development unless certification by a professional engineer or architect is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(b) Subject to satisfaction of the requirements of sub§ 5.5 (a), above, all new construction and substantial improvements situated within a floodway must comply with all applicable flood hazard reduction provisions.

Section 5.6 Inspection.

(a) Periodic inspection of the site being developed pursuant to this flood damage prevention ordinance may be made by the Floodplain Administrator to check for compliance with the development permit approved for said site. The procedure for inspection shall conform with the procedures for building inspections insofar as such procedures are reasonably susceptible to such application.

(b) (1) The development permit holder shall request a final inspection of the site development. The Floodplain Administrator shall perform the final inspection and shall determine whether the development conforms with the plans and specifications approved for such site.

(2) If the site development does not conform with all the plans and specifications approved for the development site, the Building Official shall submit to the permit holder a list of deficiencies. The permit holder shall thereafter request a reinspection and the procedures set forth in Section 5.6 (b) (1), above, shall be repeated.

(c) Until all development for which a development permit was issued is complete and all such development has been approved by the Floodplain Administrator, no certificate of occupancy nor utility service connection for permanent utility service will be issued or approved by the City.

#### PART 6: FEES.

Section 6.1 Establishment. The City Council shall establish by Resolution a fee structure for fees to be paid at the time of filing an application for a development permit or an appeal under this Ordinance. The fees shall be posted in the office of the City Secretary and may be amended by action of the City Council.

#### Section 6.2 Administration.

(a) For each action requiring payment of a fee under this ordinance, the City Secretary or a duly authorized designate, shall:

(1) maintain a record of all fees paid and of all costs incurred by the City for plan review and for inspection and reinspection;

(2) bill the development permit applicant or holder for any costs incurred by the City that exceed the amount of the fee deposit; and

(3) refund any unutilized fee deposit at the conclusion of the forty-five (45) day period following the termination of the development process.

(b) The payment of the applicable fee is a prerequisite to any action under this ordinance which entails payment of a fee.

#### PART 7: CLOSING PROVISIONS.

##### Section 7.1 Penalty for Violation.

(a) In case any property is developed or used in violation of this ordinance, the Floodplain Administrator is authorized and directed to institute any appropriate action to assure enforcement and compliance with this ordinance.

(b) Any person or corporation who shall violate any of the provisions of this ordinance, or who fails to comply herewith or with any of the requirements hereof, or who shall develop any property in violation of any development plan submitted and permit approved hereunder, shall be liable to a maximum fine of not more than Two Hundred (\$200.00) Dollars for each day any such violation shall continue. Each violation may be considered a separate offense. The owner or owners of any property or premises, or part thereof, where anything in violation of the ordinance shall be placed, or shall exist, and any architect, engineer, builder, contractor, agent, person, or corporation

employed in connection therewith, and who may have assisted a separate offense, and upon conviction thereof, shall be fined as hereinbefore provided.

(c) Nothing herein contained shall prevent the City from taking other lawful action as is necessary to prevent or remedy any violation of this ordinance.

Section 7.2 Repeal. That ordinance No. 94-78-3-20 of the City of Pflugerville, Texas, is hereby rescinded, repealed, and nullified immediately upon the date that this ordinance takes effect.

Section 7.3 Severability. If any provision, section, subsection, sentence, clause, or phrase of this ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion thereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this ordinance are declared to be severable for that purpose.

Section 7.4 Publication. The descriptive caption of this ordinance is hereby ordered to be published in the official newspaper of the City of Pflugerville for ten (10) consecutive days.

Section 7.5 Interpretation.

(a) In interpreting and applying the provisions of this ordinance, the provisions shall be deemed to be minimum requirements, shall be liberally construed in favor of the governing body, and shall be deemed neither to limit nor repeal any other powers granted under state statutes.

(b) It is not intended by this ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, or any statute, local ordinance, or regulation, except that, if this ordinance imposes a greater restriction or higher standards, this ordinance shall control.

(c) 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 manmade 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 thereunder.

Section 7.6 Effective Date. The provisions herein adopted shall take effect April 29, 1987.

