

ORDINANCE NO. 1856

AN ORDINANCE REPLACING THE CURRENT CHAPTER 38, "FLOODS" OF THE EULESS CODE OF ORDINANCES BY CHANGING THE EFFECTIVE DATE OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) SCIENTIFIC AND ENGINEERING REPORT WITH ACCOMPANYING MAPS FOR THE CITY OF EULESS FROM AUGUST 23, 2000, TO SEPTEMBER 25, 2009, AND INCLUDING REVISED REQUIREMENTS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Euless participates in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP);

WHEREAS, the City's "Floods" ordinance currently states the effective FEMA report date as August 23, 2000;

WHEREAS, a new FEMA scientific and engineering report, Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Maps (FIRMS) will go into effect September 25, 2009; and

WHEREAS, it is the desire of the City Council of the City of Euless, Texas, to amend its "Floods" ordinance to conform to this new report and accompanying maps,

WHEREAS, the City Council deems it advisable to adopt updated floodplain management requirements to help prevent and reduce flood losses.

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

SECTION I

THAT, Chapter 38 "Floods" of the Code of Ordinances is hereby in its entirety amended, to hereafter read as follows:

ARTICLE I. IN GENERAL

Sec. 38-1. Definitions.

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

Appeal board means the Planning and Zoning Commission of the City.

Area of shallow flooding means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land inundated by the base flood.

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

Base flood elevation – the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year.

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 manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

Elevated building means a nonbasement building built, in the case of a building in zones A1--30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in zones V1--30, VE, or V, to have the bottom of the lowest horizontal structure member of elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow 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. In the case of zones A1--30, AE, A, A99, AO, AH, B, C, X, D, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1--30, VE, or V, the term "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the initial FIRM (October 3, 1984). "Existing construction" may also be referred to as "existing structures."

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

Flood Insurance Study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

Flood protection system means those physical, structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to 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.

Floodplain or floodprone area means any land area susceptible to being inundated by water from any source (see the definition of "flooding").

Floodway (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.

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 and 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.

Levee means a manmade 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 and garage. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation 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. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

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 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.

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 that date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means 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 basements, 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.

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

Substantial improvement means any additions or improvement of a structure, the cumulative cost of which equals or exceeds 25 percent of the market value of the structure, or any repair or reconstruction which equals or exceeds 50 percent of the market value of the structure at the time 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 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 any alteration of a structure listed in the National Register of Historic Places or a state inventory of historic places.

Variance is a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (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)(4), or (e)(5) of the National Flood Insurance Program regulations 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.

Sec. 38-2. Statement of purpose.

It is the purpose of this chapter 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 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, storm drainage, sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

- (7) Advise individuals in the acquisition or development of lands which are unsuited for certain purposes because of flood hazards.

Sec. 38-3. Methods of reducing flood losses.

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

- (1) Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood, or that cause excessive increases in flood heights or velocities.
- (2) Requiring that 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 which are involved in the accommodation of floodwaters.
- (4) Controlling filling, grading, dredging and other development which may increase flood damage.
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 38-4. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

Sec. 38-5. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled the Flood Insurance Study, Tarrant County, Texas and Incorporated areas dated September 25, 2009, with accompanying Flood Insurance Rate Maps (FIRM), any revisions thereto, and any areas inundated by the base flood, are hereby adopted by reference and declared to be part of this chapter.

Sec. 38-6. Compliance.

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

Sec. 38-7. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 38-8. Interpretation.

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 38-9. Warning and disclaimer of liability.

The degree of flood protection required by this chapter 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 chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

Sec. 38-10 A. Statutory Authorization.

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Euless, Texas does ordain as follows:

Sec. 38-10 B. Findings of Fact.

- (1) The flood hazard areas of Euless are subject to periodic inundation, which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) When there are flood losses, they are created by the cumulative effect of obstructions in floodplains which may cause an increase in flood heights and velocities, 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.

ARTICLE II. ADMINISTRATION*

Sec. 38-41. Floodplain administrator--Designated.

The City Engineer or designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

Sec. 38-42. Same--Duties and responsibilities.

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

- (1) Maintaining and holding open for public inspection all records pertaining to the provisions of this chapter.
- (2) Reviewing permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (3) Reviewing, approving or denying all applications for development permits required by adoption of this chapter.
- (4) Reviewing 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 USC 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 hazard, 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) Notifying, in riverine situations, adjacent communities and the state coordinating agency, which is the Texas Water Development Board, prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Emergency Management Agency.
- (7) Assuring that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Section 38-5, the permit applicant shall furnish an engineering study which includes the establishment of the base flood elevation. The lowest floor elevation of any structure shall be two feet or more above the base flood elevation.

- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1--30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) For areas outside the identified flood hazard areas which have experienced flooding or where heavy development is occurring, the Floodplain Administrator will require that a permit is applied for and that the applicant furnish an engineering study which includes the establishment of the base flood elevation. The lowest floor elevation of any structure within these areas shall be two feet above the base flood elevation.

Sec. 38-43. Same--Right of entry.

The Floodplain Administrator, or his duly authorized representative, may enter any building, structure or premises to perform any duties imposed upon him by this chapter.

Sec. 38-44. Development permit--Established.

A development permit shall be required to ensure conformance with the provisions of this chapter.

Sec. 38-45. Same--Permit procedures.

- (a) *Application; required information.* Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him and may include, but is not limited to, plans in duplicate, drawn to scale, showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - (1) Elevation in relation to mean sea level of the lowest floor, including basement and garage, of all new and substantially improved structures.
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.
 - (3) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
 - (4) Maintain a record of all such information in accordance with Section 38-42(1).

(b) *Approval or denial.* Approval or denial of a development permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

- (1) The danger to life and property due to flooding or erosion damage.
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (3) The danger that materials may be swept onto other lands to the injury of others.
- (4) The compatibility of the proposed use with existing and anticipated development.
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities, such as sewer, gas, electrical and water systems.
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (8) The necessity to the facility of a waterfront location, where applicable.
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (10) The relationship of the proposed use to the comprehensive plan for that area.

Sec. 38-46. Same--Revocation.

The Floodplain Administrator may revoke a permit or approval issued under the provisions of this chapter in cases where there has been any false statement or misrepresentation as to a material fact in the application or plans upon which the permit or approval was based.

Sec. 38-47. Variance procedures.

- (a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.
- (b) 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 chapter.
- (c) Any person aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.
- (d) 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.
- (e) 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 chapter. 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.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in Section 38-45(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted in this section and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) Prerequisites for granting variances shall be as follows:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - a. Showing of good and sufficient cause;

- b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the required minimum finish floor elevation which is two feet above 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.
- (j) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria outlined in subsections (a) through (i) of this section are met and the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

Sec. 38-48. Stop work orders.

Upon notice from the Floodplain Administrator that work on any building, structure, dike, bridge or any improvement which would affect water drainage is being done contrary to the provisions of this chapter, or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required to be given by the Floodplain Administrator, provided written notice shall follow within 24 hours from the time oral notice to stop work is issued.

Sec. 38-49. Penalty for violation of chapter.

Any person violating the terms and provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in Section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. Any such violation shall be deemed a violation of a provision governing public health and sanitation under Section 1-12 of this Code.

Secs. 38-50--38-70. Reserved.

ARTICLE III. FLOOD DAMAGE PREVENTION

Sec. 38-71. General standards.

In all areas of special flood hazard 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 floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.
- (7) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (8) All proposed developments shall be designed and constructed to not increase the flooding potential for existing structures that are known to be impacted by the base flood.

Sec. 38-72. Specific standards.

In all areas of special flood hazard where base flood elevation data have been provided as set forth in Section 38-5, Section 38-42 or Section 38-73(4), the following provisions are required:

- (1) *Residential and nonresidential construction.* New construction and substantial improvement of any structure shall have the lowest floor, including basement and garage, elevated two feet or more above the base flood elevation. A licensed professional engineer, or land surveyor shall submit a certification letter to the Planning and Development Department

that the standard of this subsection, as proposed in Section 38-45(a)(1), is satisfied.

- (2) *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 that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one 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.
- (3) *Manufactured homes.* The placement of manufactured housing within the areas which have been identified as areas of special flood hazard is prohibited.

Sec. 38-73. Standards for subdivision proposals.

The following standards shall apply for subdivision proposals:

- (1) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with Sections 38-2 and 38-3.
- (2) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the development permit requirement of Section 38-44, Section 38-45, and the provisions of this article.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, if not otherwise provided pursuant to Section 38-5 or Section 38-42(8) of this chapter.
- (4) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

- (5) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

Sec. 38-74. Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in Section 38-5 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and 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 shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures:
 - a. Shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - b. Together with attendant utility and sanitary facilities, shall be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (4) A licensed professional engineer shall submit a certification to the Floodplain Administrator that the standards of this section, as proposed in Section 38-45(a)(1), are satisfied.
- (5) Require within zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

Sec. 38-75. Floodways.

Located within areas of special flood hazard established in Section 38-5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the

velocity of floodwaters 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, unless certification by a licensed professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (1) of this section is satisfied, all construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

SECTION II

Severability Clause. That it is hereby declared to be the intention of the City Council that the section, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase.

SECTION III

Effective Date. This ordinance shall be in force and effect from September 25, 2009, and publication as provided by the Euless City Charter and the laws of the State of Texas.

PRESENTED AND GIVEN FIRST AND FINAL READING and approved at a regular meeting of the Euless City Council on the 25th day of August, 2009, by a vote of ____ ayes, ____ nays, and ____ abstentions.

APPROVED:

Mary Lib Saleh
Mayor

ATTEST:

Susan Crim, TRMC
City Secretary

APPROVED AS TO FORM:

Bob McFarland
City Attorney