

ORDINANCE NO. 2008-30

AN ORDINANCE OF THE CITY OF COPPERAS COVE, TEXAS, ENTITLED "FLOOD DAMAGE PREVENTION ORDINANCE"; AMENDING THE CODE OF ORDINANCES IN CHAPTER 4 "BUILDINGS; CONSTRUCTION, RELATED ACTIVITIES," ARTICLE III "FLOOD DAMAGE CONTROL;" REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A PENALTY; PROVIDING A SAVING CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Flood Emergency Management Agency (FEMA) has completed a new Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for a portion of our community;

WHEREAS, FEMA has required the city to update this Flood Damage Prevention Ordinance with some new minimum requirements in order to continue to participate in the National Flood Insurance Program.

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

Section 1. Chapter 4 "Buildings; Construction, Related Activities," Article III "Flood Damage Preventive Ordinance" shall be amended to read as follows:

FLOOD DAMAGE PREVENTION ORDINANCE

Sec. 4-90. 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 Copperas Cove, Texas does ordain as follows:

Sec. 4-91. Findings of fact.

(a) The flood hazard areas of the City of Copperas Cove 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.

(b) These flood losses are created by cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

Sec. 4-92. 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:

(a) Protect human life and health;

- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (f) 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
- (g) Insure that potential buyers are notified that property is in a flood area.

Sec. 4-93. Methods of reducing flood losses.

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

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

Sec. 4-94. 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 the 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 one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (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 one (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, AE, AH, AO, 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 one (1) percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) is the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-30, AR, V1-30, 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 in 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.

Elevation Certificate is certification for all elevation requirements noted in this ordinance documented by using the Elevation Certification, FEMA 81-31, and shall be certified by a registered professional engineer, surveyor, or architect, and shall be submitted to the Floodplain Administrator.

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.

Enclosure is a fully enclosed area below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement.

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 structure."

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 a floodplain management regulation 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:

- (a) The overflow of inland or tidal waters.
- (b) 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 preventative 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 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.

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 a 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:

- (a) 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;
- (b) 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;
- (c) 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

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior or;
- (2) 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 (2) or more manufactured home lots for rent or sale.

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 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 a floodplain management regulation adopted by a community.

Non-residential structure includes, but is not limited to: small business concerns, churches, school, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, hotels and motels with normal room rentals for less than 6 months' duration, and nursing homes.

Reasonably safe from flooding means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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 a 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.

Repetitive Loss means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

Residential structure is one that is considered to be a domicile or is used for residential purposes for 6 months or more. Residential structures include a single family home, multiple unit apartment buildings, a residential condominium, a manufactured home or a modular home.

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 Resource 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 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 the 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 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 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% of the market value of the structure before the damage occurred. "Substantial Damage" also means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25% 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 fifty (50) percent of the market value of the structure before "start construction" of the improvement. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term includes

structures which have incurred "repetitive loss" or substantial damage, regardless of the actual repair work performed. The term substantial improvement 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) 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.

General provisions Sec. 4-95. *Lands to which this ordinance applies.*

The ordinance [this article] shall apply to all areas of special flood hazard within the jurisdiction of Copperas Cove.

Sec. 4-96. *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 reports entitled, "The Flood Insurance Study (FIS) for Bell County, Texas and Incorporated Areas", dated September 26, 2008, with accompanying Flood Insurance Rate Maps (FIRMS) dated September 26, 2008, "The Flood Insurance Study (FIS) for the City of Copperas Cove, Coryell County, Texas," dated November 6, 1996 with accompanying Flood Insurance Rate Map (FIRM) dated November 6, 1996, "The Flood Insurance Rate Map (FIRM) Index Panel entitled Lampasas County, Texas, Unincorporated Areas", dated January 2, 1991 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Sec. 4-97. *Establishment of floodplain development permit.*

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

Sec. 4-98. *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. 4-99. *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. 4-100. *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. 4-101. *Warning and disclaimer of 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 there under.

Administration

Sec. 4-102. *Designation of the floodplain administrator.*

The City Planner 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. 4-103. *Duties and responsibilities of the floodplain administrator.*

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

- (a) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
- (b) Review permit applications to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (c) Review, approve or deny all applications for development permits required by adoption of this ordinance.
- (d) 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.
- (e) 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.
- (f) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (g) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (h) When base flood elevation data has not been provided in accordance with section 4-96, 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 sections 4-106 thru 4-110, Provisions for Flood Hazard Reduction.
- (i) 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 (1) foot at any point within the community.

(j) 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 A1--30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one (1) foot, provided that the community **first** completes all of the provisions required by Section 65.12 of the National Flood Insurance Program Regulations.

Sec. 4-104. Permit procedures.

(a) Application for a Floodplain Development Permit shall be presented to the floodplain administrator on forms furnished by him/her and 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, 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) of all new and substantially improved structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;

(3) A certificate from a registered professional engineer or architect that the non-residential flood proofed structure shall meet the flood proofing criteria of section 4-107(b);

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

(5) Maintain a record of all such information in accordance with section 4-103(a).

(b) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this ordinance 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 the 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 facilities and utilities such as sewer, gas, electrical and water systems;

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

(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;

Sec. 4-105. Variance procedures.

(a) The appeal board as established by the city shall hear and render judgment on requests for variances from the requirements from this ordinance.

(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 ordinance.

(c) Any person or persons 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 ordinance.

(f) Variances may be issued 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, providing the relevant factors in section 4-104(b) of this article have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(g) 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 (section 4-92).

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) 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.

(j) Prerequisites for granting variances:

(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, (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 local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure 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.

(k) 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 (1) the criteria outlined in section 4-105(a) through (i) are met, and (2) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Provisions for flood hazard reduction

Sec. 4-106. *General standards.*

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

(a) 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;

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

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

(d) All new and substantially improved residential structures shall have the duct work, and exposed plumbing and electrical components elevated to or above the base flood elevation;

- (e) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (f) 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 the floodwater;
- (g) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
- (h) A minimum of 30% of the area within any given special flood hazard area in the community must remain in its undeveloped condition and free of impermeable surfaces; and
- (i) Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the special flood hazard area 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.

Sec. 4-107. *Specific standards.*

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) section 4-96, (ii) section 4-103(h), or (iii) section 4-108(c), the following provisions are required:

(a) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated twenty-four (24) inches or more 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 section as proposed in section 4-104(a)(1) is satisfied.

(b) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to twenty-four (24) inches or more above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight to a minimum level of twenty-four (24) inches with walls substantially impermeable to the passage of water and with structural components having the capacity 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 section. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood proofed shall be maintained by the floodplain administrator. Small, detached accessory structures of 400 square feet or less and valued at \$3,000 or less are exempt from the requirements to elevate or dry flood proof non-residential structures. They may be used only for limited parking of light vehicles and storage of low cost items.

(c) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are useable 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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:

(1) A minimum of two (2) openings on separate walls having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

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

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

(d) *Manufactured homes.*

(1) All manufactured homes to be placed, within Zone A on a 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 floatation, 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 an addition to applicable state and local anchoring requirements for resisting wind forces.

(2) Manufactured homes that are placed or substantially improved within Zones A1--30, AH, and AE on the community's FIRM on sites (a) outside of a manufactured home park or subdivision, (b) in a new manufactured home park or subdivision, (c) in an expansion to a park or subdivision, or (d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to twenty-four (24) inches or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(3) Manufactured homes that are placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1--30, AH and AE on the community's FIRM that are not subject to the provisions of this section shall be elevated so that either:

a. The lowest floor of the manufactured home is at eighteen (18) inches or more above the base flood elevation, or

b. The manufactured home chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

(e) *Recreational vehicles.* Require that the recreational vehicles placed on sites within Zones A1-30, AH, AE on the community's FIRM either (1) be on the site for fewer than one hundred eighty (180) consecutive days, (2) be fully licensed and ready for highway use, or (3) meet the permit requirements of section 4-104(a), and the elevation and anchoring requirements for "manufactured homes" in paragraph (d) of this section. A recreational vehicle is ready for highway use if it is on 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. 4-108. Standards for subdivision proposals.

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with sections 4-91, 4-92, and 4-93 of this ordinance.

(b) All proposals for the development of subdivisions and manufactured home parks and subdivisions shall meet development permit requirements of section 4-97; section 4-104; and the provisions of section 4-106 thru sections 4-110 of this ordinance.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to section 4-96 or section 4-103(h) of this ordinance.

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

(e) 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.

(f) A drainage study shall be conducted for all subdivisions of any size or development covering 5 or more acres within or outside of the special flood hazard area. Flood waters originating within these areas shall not be allowed to drain from the area described in higher quantities or flow rates than existed under pre-construction conditions. This shall be accomplished by the proper design and construction of detention, retention, and/or drainage systems.

(g) At least one primary access roadway into each residential subdivision shall be elevated to or above the base flood elevation to allow access and egress for residents and emergency vehicles.

Sec. 4-109. *Standards for areas of shallow flooding (AO/AH Zones).*

Located within the areas of special flood hazard established in section 4-96 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) 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:

(a) When a residential or non-residential structure is intended to be constructed in an Approximate A Zone, a base flood elevation must be determined by using the same engineering standards and methods that are used to develop base flood elevations in a Flood Insurance Study (FIS).

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

(1) Have the lowest floor (including basement) elevated to 24 inches above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).

(2) 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 level, the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy.

(c) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 4-104(a)(1), are satisfied.

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

(e) At least one primary entry road to a residential structure shall be elevated to or above the base flood elevation to allow entry and exit of vehicles during a base flood event.

(f) If fill material is to be used to elevate any structure in Zones A, A1-30, AE, AO, AH, AR, or A99, the following will apply:

(1) Fill material must be compacted to at least 95% of Standard Laboratory Maximum Density (Standard Proctor) according to ASTM Standard D-698;

(2) Fill soils must be fine grained soils of low permeability, such as those classified as CH, CL, SC, or ML according to ASTM Standard D-2487, "Classification of Soils for Engineering Purposes". See Table 1804.2 in the "2000 International Building Code (IBC)" for descriptions of these soils types.

(3) The fill material must be homogeneous and isotropic; that is the soil must be all of one material, and the engineering properties must be the same in all directions

(4) Fill material is prohibited in Zones V, V1-30, VE, or VO.

Sec. 4-110. *Floodways.*

Located within areas of special flood hazard established in section 4-96, are areas designated as floodways. Since the floodway is an extremely hazardous area due to velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(a) 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.

(b) All development, in any form, is prohibited within the boundaries of the regulatory floodway as delineated on the community's FIRM.

Sec. 4-111. *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. 4-112. *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 ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof, be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Copperas Cove from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 4-113. *Standards for outside of the Special Flood Hazard Area*

All residential structures that are constructed outside the Special Flood Hazard Area shall be elevated twelve (12) inches above the highest adjacent grade.

Secs. 4-114 through 4-120. Reserved.

Section 2. Be it further ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Copperas Cove, Texas, and that sections of this ordinance be re-numbered or re-lettered to accomplish such intention.

Section 3. Be it further ordained that all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

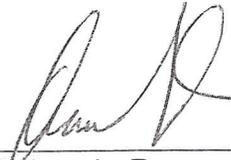
Section 4. Be it further ordained that if any provisions of this ordinance shall be held invalid or unconstitutional, the remainder of this ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part thereof.

Section 5. Be it further ordained that a violation of this ordinance shall be a misdemeanor and the penalty for violating this ordinance shall be a fine not to exceed \$2,000.00.

Section 6. It is hereby found and determined that the meeting at which this ordinance passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

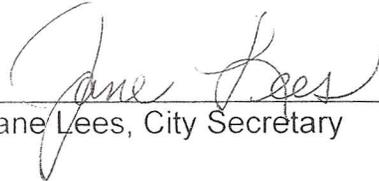
Section 7. It is hereby found and declared by the City of Copperas Cove, that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy any flooding occurrence, it is necessary that this ordinance become effective immediately.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COPPERAS COVE, TEXAS, this 2nd day of September 2008; such meeting was held in compliance with the Open Meetings Act (Government Code, Article 551.001 et seq.), at which meeting a quorum was present and voting.

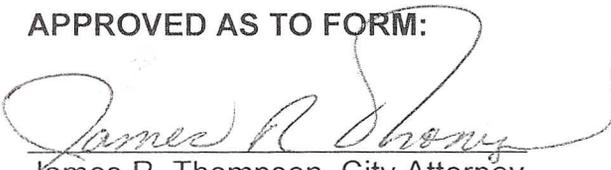

Robert L. Reeves, Mayor Pro Tem



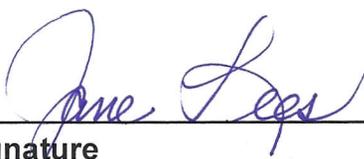
ATTEST:


Jane Lees, City Secretary

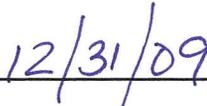
APPROVED AS TO FORM:


James R. Thompson, City Attorney

I certify that this copy of Ordinance No. 2008-30 of the City of Copperas Cove, Texas, is a true and correct copy of the original.


Signature

Title


Printed Name

Date

