

## ORDINANCE NO. 2437

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 6A OF THE CODE OF THE CITY OF MESQUITE, REFERRED TO AS THE COMPREHENSIVE DRAINAGE ORDINANCE OF 1975 DULY PASSED BY THE CITY COUNCIL ON APRIL 21, 1980 BY REPEALING PORTIONS OF CHAPTER 6A; BY PROVIDING CERTAIN REQUIREMENTS AND CRITERIA FOR CONSTRUCTION IN AREAS OF SPECIAL FLOOD HAZARDS TO COMPLY WITH THE FLOOD INSURANCE PROGRAM REQUIREMENTS OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00); AND DECLARING AN EMERGENCY.

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

SECTION 1. That Chapter 6A of the Code of the City of Mesquite is hereby amended as follows, in all other respects to remain in full force and effect:

1. Deletions:

Sections 6A-7 and 6A-10 are hereby deleted

2. Additions:

New Sections 6A-2.1, 6A-7, 6A-7.1 and 6A-10 are hereby adopted, each to read as follows:

**Section 6A-2.1. Definitions.**

Unless specifically defined below, words or phrases used in Chapter 6A shall be interpreted to give them the meaning they have in common usage and to give this Chapter 6A its most reasonable application.

**APPEAL** - means a request for a review of the Floodplain Administrator's interpretation of any provision of Chapter 6A or a request for a variance.

**AREA OF SHALLOW FLOODING** - means a designated AO, AH, zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance 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** - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on

the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, A1-99.

**BASE FLOOD** - means the flood having a one percent chance of being equaled or exceeded 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 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.

**ELEVATED BUILDING** - means a nonbasement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, B, C and D, to have the top of the elevated floor, or in the case of a building to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the the unimpeded movement of flood waters.

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

**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 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 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 City of Mesquite.

**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.

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

**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 the City of Mesquite subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**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.

**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 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. 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 National Geodetic Vertical Datum (NGVD) of 1929 to which base flood elevations shown on the City of Mesquite'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 the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**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 IMPROVEMENT** - means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% 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.

**VARIANCE** - Is a grant of relief to a person from the requirements of Chapter 6A when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by Chapter 6A. (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 Sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 of floods of various magnitudes and frequencies in the flood plains or riverine areas.

**Section 6A-7. Construction in areas of special flood hazard.**

**A. Findings of Fact**

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

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, 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.

**B. Methods of Reducing Flood Losses**

In order to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by utilizing the following methods:

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

C. Lands to which Sections 6A-7 and 6A-10 apply.

Sections 6A-7 and 6A-10 shall apply to all areas of special flood hazard with the jurisdiction of the City of Mesquite.

D. Basis for establishing the 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 for the City of Mesquite, date June 4, 1987, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this section.

E. Establishment of development permit

A development permit shall be required to ensure conformance with the provisions of Section 6A-7 and 6A-10.

F. Compliance

No construction or development, including excavation, filling or construction of embankment, shall be allowed within areas of special flood hazard prior to the issuance of a development permit by the Director of Community Development. Application for a development permit shall be submitted in writing, accompanied by engineering plans and sufficient design data pertaining to the proposed construction to determine whether such construction will adversely affect flow characteristics within the flood hazard area or increase at any point the water surface elevation during the occurrence of the base flood discharge. Engineering data required to be furnished with a permit application shall be prepared by a professional engineer, registered in the State of Texas and experienced in the practice of civil engineering. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of Section 6A-7 and 6A-10 and other applicable regulations.

G. Abrogation and greater restrictions

Sections 6A-7 and 6A-10 is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these Sections and others conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

H. Interpretation

In the interpretation and application of Sections 6A-7 and 6A-10, 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.

## I. Warning and disclaimer or liability

The degree of flood protection required by Sections 6A-7 and 6A-10 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. Sections 6A-7 and 6A-10 do 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. Chapter 6A shall not create liability on the part of the City of Mesquite or any official or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

### SECTION 6A-7.1 PROVISIONS FOR FLOOD HAZARD REDUCTION.

#### A. General Standards

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

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

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

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

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

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

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

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

#### B. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 6A -7(d)

(ii) Section 6A- 10(b)(8) or (iii) Section 6A-7.1(c)(4) the following provisions are required:

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor, (including basement), elevated to or above the base flood elevation plus two feet. A registered professional engineer, or land surveyor shall submit an elevation certificate to the Floodplain Administrator that the standard of this subsection as proposed in Section 6A-10(c)(1)(a) is satisfied. This elevation certificate shall be maintained in the permanent files of the Building Inspection Division.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level plus two feet or, 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 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 in the permanent files of the Building Inspection Division.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor, that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or 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.

(4) **Manufactured Homes** -

a. Require that all manufactured homes to be placed



within Zone A, shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

b. All manufactured homes shall be in compliance with Section 6A-7.1(b)(1).

c. Require that all manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation plus two feet, and be securely anchored to an adequately anchored foundation system in accordance with the provision of Section 6A-7.1(b)(4).

#### C. Standards for Subdivision Proposals

(1) All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Sections 6A-7.1(b)(c) and (d).

(2) All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet Development Permit requirements of Section 6A-7(e), Section 6A-10(c); and the provisions of Section 6A-7.1.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 6A-7(d) or Section 6A-10(b)(8).

(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 and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### D. Floodways

Floodways - located within areas of special flood hazard established in Section 6A-7(d), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a professional registered 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 Section 6A-7.1(c)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 6A-7.1.

(3) Placement of any mobile homes in a floodway, except in an existing mobile home park or subdivision, is prohibited.

**SECTION 6A-10 Duties of the Director of Community Development, Permit Procedures, Appeal and Variance Procedures.**

**A. Designation of the Floodplain Administrator**

The Director of Community Development is hereby appointed the Floodplain Administrator to administer and implement the provisions of Chapter 6A and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

**B. Duties and Responsibilities of the Floodplain Administrator**

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

(1) Maintain and hold open for public inspection all records pertaining to the provisions of Chapter 6A.

(2) Review permit application to determine whether proposed building site will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this ordinance.

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

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

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

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with Section 6A-7(e), 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 Section 6A-7.1.

(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) The interpretation of the criteria hereinabove set forth in Chapter 6A shall be made by the Director of Community Development.

(11) As a member of the development review committee, review all subdivision proposals in special flood hazard areas to assure that such proposals minimize flood damage, provide adequate drainage and minimize flood damage to public utilities and facilities.

### C. Permit Procedures

(1) Application for a Development Permit shall be presented to the City Engineer on forms furnished by him 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, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

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

b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.

c. A certificate from a registered professional engineer that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 6A-7.1(b)(2).

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

e. Maintain a record of all such information in accordance with Section 6A-10(b)(1).

(2) Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of Section 6A and the following relevant factors:

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

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

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

d. The compatibility of the proposed use with existing and anticipated development; and the relationship of the proposed use to the comprehensive planned zoning for that area;

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

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

g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters if applicable, expected at the site;

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

i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

#### D. Variance Procedures

(1) Any person adversely affected by the decision of the Director of Community Development may, within ten (10) days from the date of such decision, file and appeal in writing. Such appeal shall be returnable to the Director of Community Development and shall define the specific areas of controversy. The City Council shall hear and render judgment on requests for variances from the requirements of this section.

(2) The City Council 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 Chapter 6A.

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

(4) The Director of Community Development shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.

(6) 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, providing the relevant factors in Section 6A-10 of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this Chapter 6A, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this section.

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

(9) Prerequisites for granting variances:

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

b. Variances shall only be issued upon, (i) showing a good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

c. 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 base flood

elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(10) 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 (i) the criteria outlined in Section 6A-10(d)(1-9) are met, and (ii) 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.

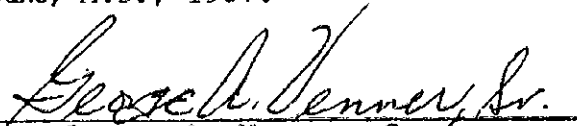
SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict are hereby repealed. To the extent that such ordinances or portions thereof not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional and shall not affect the validity of the Comprehensive Drainage Ordinance as a whole.


SECTION 4. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and subject to the same penalty as provided for in the Comprehensive Drainage Ordinance of 1975, of the City of Mesquite, and upon conviction in the Municipal Court shall be punished by a fine not to exceed Two Hundred (\$200.00) Dollars for each offense.

SECTION 5. The fact that the present ordinances of the City of Mesquite are inadequate to protect the health and welfare of the inhabitants of the City of Mesquite creates an urgency and an emergency and necessitates that this ordinance become effective immediately from and after its date of passage and the publication of its captions as the law in such cases provides.

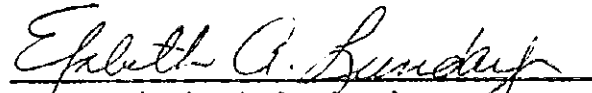
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas on the 1st day of June, A.D., 1987.

  
 \_\_\_\_\_  
 George A. Venner, Sr.  
 Mayor

ATTEST:

  
 \_\_\_\_\_  
 Lynn Prugel  
 City Secretary

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Elizabeth A. Lunday  
 Assistant City Attorney