

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 11 OF THE CODE OF THE CITY OF MESQUITE BY DELETING SECTIONS 11-208 (1-9) IN THEIR ENTIRETY AND ADDING NEW SECTIONS 11-208 (1-9) THEREBY AMENDING THE FLOODPLAIN ALTERATION REQUIREMENTS; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND ESTABLISHING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 11 of the Code of the City of Mesquite is hereby amended by deleting Sections 11-208 (1-9) in their entirety and adding new Sections 11-208 (1-9) to read as follows, in all other respects said Code and Chapter to remain in full force and effect.

Chapter 11

PLANNING AND DEVELOPMENT

Sec. 11-208. Floodplain alterations.

- A. Amend by deleting Sections 11-208 (1-9) in their entirety and adding new Sections 11-208 (1-9) to read as follows:
- (1) Alterations of the floodplain and “natural floodway” shall not increase the water surface elevation of the design flood nor increase the volume of water to any adjacent, adjoining, upstream or downstream property owner, or otherwise adversely affect the property of any adjacent, adjoining, upstream or downstream property owner unless:
 - (a) Full disclosure of the effects of the increase is made to the City;
 - (b) Full disclosure of the effects of the increase is made to all property owners, governmental agencies and quasi-governmental agencies affected by such increase; and
 - (c) The applicant provides evidence to the City, in a form acceptable to the City, that the applicant has acquired legal right (capable of being assigned to the City) to encroach upon the affected property

which right shall take into consideration the effect of such encroachment on the remaining property of the affected owners.

- (d) Applicant's delivery to the City of policies of insurance in amounts and containing terms agreeable to the City and which name the City as a named insured or as an additional insured, insuring City against claims by third parties arising as a result of claims which may be made by adjacent, adjoining, upstream or downstream property owners for damages occasioned, or claimed to be occasioned, as a result of flooding due to development of the property or construction of any improvements upon the property.
- (e) Applicant's delivery to the City of a legally enforceable and binding indemnity agreement containing terms agreeable to the City, indemnifying the City from and against all loss or liability (including attorney's fees) which may be occasioned by the City as a result of claims by third parties arising as a result of claims which may be made by adjacent, adjoining, upstream or downstream property owners for damages occasioned, or claimed to be occasioned, as a result of flooding due to development of the property or construction of any improvements upon the property.

It shall be the duty and obligation of the applicant to show and establish that there will not be an increase of surface elevation, volume or velocity, or alternatively the extent of the amount of such increase together with the full disclosure of all property affected by such increase. The matters herein required shall be evidenced by submission of drainage plans in form and content satisfactory to the City under seal of a professional registered engineer in the State of Texas. The cost of preparation of such drainage plans shall be paid exclusively by the applicant. The matters required by this paragraph shall be reviewed by an outside consultant of the City's choosing. The cost incurred by the City as a result of outside consultant review shall be paid by the applicant.

- (2) Alterations shall be in compliance with FEMA guidelines. All projects shall receive a conditional letter of map revision prior to issuance of a development permit.
- (3) Alterations of the floodplain shall not create an erosive water velocity on or off-site.
- (4) The effects of existing improvements or public and private improvements for which a future commitment has been made by the City, county, state or federal agencies shall be used in determining water surface elevations and velocities.
- (5) Any alteration of floodplain areas shall not cause any additional expense in any current or projected public improvements.

- (6) The floodplain shall be altered only to the extent permitted by equal conveyance on both sides of the natural channel. The right of equal conveyance applies to all owners and uses including greenbelt, park areas and recreational usages. Owners may relinquish their right to equal conveyance by providing a written agreement to the City.
- (7) Maximum slopes of filled areas shall not exceed three (3) to one (1). Slopes of any excavated areas not in rock shall not exceed four (4) to one (1).

Fill slopes, vertical walls, terracing and other slope treatments may be considered provided no unbalancing of stream flow results and only as a part of a grading permit application.

- (8) A grading permit shall be required so that proper provisions for protecting against erosion losses will be made.
- (9) The City will utilize an engineering consulting firm to assist City staff in the review of a flood study. The cost of this consultant review shall be borne by the developer, engineer or property owner submitting the flood study.

The City shall first obtain a cost estimate from the engineering consultant for the flood study review. Before the review begins, the developer, engineer or property owner submitting the flood study shall deposit with the City funds equal to the cost estimate. The City shall disburse the funds to the consulting engineer as the review progresses. Should the consultant fees exceed the initial estimate, the developer, engineer or property owner submitting the flood study shall be informed of the shortage and a new estimate made by the consultant engineer to complete the flood study review. Additional funds will then be deposited with the City by the developer, engineer or property owner submitting the flood study to cover the estimated shortfall before the review of the study resumes.

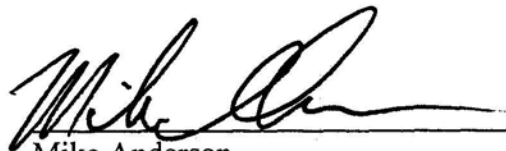
SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

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 upon conviction in the Municipal Court, shall be punished by a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense.

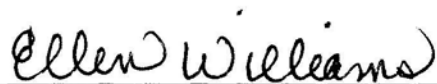
SECTION 5. That this ordinance shall take effect immediately from and after its passage.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 7th day of October, 2002.



Mike Anderson
Mayor

ATTEST:



Ellen Williams
City Secretary

APPROVED:



B. J. Smith
City Attorney