

**MINUTES of a MEETING
of the
DALWORTHINGTON GARDENS
CITY COUNCIL**

Executive Session: Thursday, October 20, 2005 6:30 P.M.

Regular Session: Thursday, October 20, 2005 7:00 P.M.

EXECUTIVE SESSION

An executive session of the City Council was held at **6:30 o'clock p.m.** on **Thursday, October 20, 2005, in the Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas.** The following items of business were considered, discussed and acted upon, as deemed appropriate by the Council:

The City Council met in closed, executive session pursuant to the provision of the Open Meetings Law, Chapter 551 of the Government Code, in accordance with the authority contained in Section 551.071 to discuss possible litigation.

REGULAR SESSION

A regular meeting was held at **7:00 o'clock p.m.** on **Thursday, October 20, 2005 in the Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas.** The following items of business were considered, discussed and acted upon, as deemed appropriate by the Council:

Members Present:

Albert A. Taub, Mayor
Guy Snodgrass, Mayor Pro tem
Mike Pettke, Councilman
Michael Tedder, Councilman
Kenneth Wallace, Councilman
Jim Piland, Councilman

Staff Present:

Melinda Brittain, City Secretary
Bill Waybourn, Chief of Public Safety
Stan Wilkes, City Attorney
Krysten Jeter, Deputy City Secretary

CALL TO ORDER- Mayor Taub called the meeting to order at 7:00pm

(Agenda Item 1) Action from Executive Session

No action was taken.

(Agenda Item 2) Citizen comments

Debbie Sturbuck, Arlington Classic Academy
Matt Baker, Arlington Eagle Scout
Kathy Price, 2820 Whisperwood, Park Board Report

(Agenda Item 3) Mayor and Council comments

(Agenda Item 4) Departmental Reports and September Financial Report

On motion by Councilman Pettke, seconded by Councilman Tedder,
it was:

RESOLVED, that the departmental reports and financial report for
September be approved and placed in the records of the City

Motion passed by a vote of 5 ayes and 0 nays.

(Agenda Item 5) Minutes of September 7, 8, 13, and 15, 2005 Meetings

On motion by Councilman Pettke, seconded by Councilman Wallace,
it was:

RESOLVED, that the minutes of the September 7, 8, 13, & 15, 2005
Council meeting be approved and placed in the records of the city.

Motion passed by a vote of 5 ayes and 0 nays.

**(Agenda Item 6) Pleasant Ridge Road Interlocal Agreement between Arlington and
Dalworthington Gardens.**

No action.

**(Agenda Item 7) Resolution 05-65, Rabies Control Interlocal Agreement between Fort Worth
and Dalworthington Gardens.**

On motion by Councilman Piland, seconded by Councilman Pettke, it was:

RESOLVED, that the Mayor is hereby authorized to execute on behalf of the
City an Interlocal Agreement with Ft. Worth for rabies control.

RESOLVED FURTHER, that the City Secretary is hereby authorized to attest
to the execution of the agreement and to affix the seal of the City thereto.

Motion passed by a vote of 5 ayes and 0 nays.

RESOLUTION NO. 05-65

A RESOLUTION AUTHORIZING EXECUTION OF
AN AGREEMENT THE CITY OF FT. WORTH.
CONCERNING AN INTERLOCAL AGREEMENT FOR RABIES
CONTROL SERVICES.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor is hereby authorized to execute an agreement with the City of Ft. Worth, providing an Interlocal Agreement for Rabies Control Services.

2.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

(Agenda Item 8) Ordinance 05-15, Amendment to Chapter 3.3 Fee Schedule: Animal Control, Police Wrecker pulls, Building Permit Valuation Schedule.

On motion by Councilman Pettke, seconded by Councilman Tedder, it was:

RESOLVED, that Ordinance 05-15, Amendment to Chapter 3.3 Fee Schedule: Animal Control, Police Wrecker pulls, Building Permit Valuation Schedule be approved and placed in the records of the City.

Motion passed by a vote of 5 ayes and 0 nays.

ORDINANCE NO. 05 - 15

AN ORDINANCE AMENDING SECTION 3.3.05 OF CHAPTER 3, PERMIT AND SERVICE FEES, OF TITLE 3, REVENUE AND FINANCE, OF THE CODE OF THE CITY OF DALWORTHINGTON GARDENS, BY AMENDING B., CONSTRUCTION SERVICES, PARAGRAPH (2) a., PRESCRIBING RATES FOR BUILDING PERMITS; AMENDING E., MISCELLANEOUS, PARAGRAPH (1), RE ANIMALS AND ANIMAL IMPOUNDMENT, PRESCRIBING FEES THEREFOR; AND AMENDING E., MISCELLANEOUS, PARAGRAPH (5), PRESCRIBING FEES FOR WRECKER POLICE PULLS; REPEALING ORDINANCES IN CONFLICT HEREWITH; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES OF THE CITY NOT IN CONFLICT HEREWITH; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That sub-paragraph a. of paragraph (2), Permits and Inspections -- Building, of Sub-section B, CONSTRUCTION SERVICES, of Section 3.3.05, Schedule of Fees and Charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE AND FINANCE, of the Code of the City of Dalworthington Gardens be amended so that hereafter the same shall be and read as follows:

Permits and Inspections - Building

Building permits, based on valuation of construction at \$80.00 per square foot heated and cooled area and \$40.00 per square foot for all other areas.

Application fee (plan review)	\$100.00 Non-refundable; applied to permit fee
<i>Valuation</i>	<i>Fee</i>
Up to \$5,000	\$170.00 for first \$1,000.00 6.00 each additional \$1000 or fraction thereof
\$5,001 to \$25,000	\$200.00 for first \$5,000.00 8.00 each additional \$1,000 or fraction thereof
\$25,001 to \$50,000	\$400.00 for first \$25,000.00 10.00 each additional \$1,000 or fraction thereof
\$50,001 to \$100,000	\$700.00 for first \$50,000.00 12.00 each additional \$1,000 or fraction thereof
\$100,001 to \$500,000	\$1300.00 for first \$100,000.00 15.00 each additional \$1,000 or fraction thereof
\$500,001 or more	\$7300.00 for first \$500,000.00 20.00 each additional \$1,000 or fraction thereof

2.

That paragraph (1), Animal Impoundment, of Sub-section E, MISCELLANEOUS, of Section 3.3.05, Schedule of Fees and Charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE AND FINANCE, of the Code of the City of Dalworthington Gardens be amended so that hereafter the same shall be and read as follows:

(1) Animal impoundment	Fee
Dogs and cats (per day)(3-day hold)	\$15.00
Other animals (per day)	\$30.00
Dogs and cats pick up & transportation by DWG	\$25.00
Euthanization/disposal fee	\$15.00
Quarantine board fee (per day)	\$20.00
Service request	\$70.00
Emergency service request	\$80.00
Educational services (per hour)	\$70.00
Animal head shipment/rabies testing	\$80.00

3.

That paragraph (5), Police Pulls, of Sub-section E, MISCELLANEOUS, of Section 3.3.05, Schedule of Fees and Charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE

AND FINANCE, of the Code of the City of Dalworthington Gardens be amended so that hereafter the same shall be and read as follows:

(5) Police pulls	Fee
Certificate application	\$50.00
Pull charge (per vehicle, per pull)	\$45.00

4.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith, but is hereby made cumulative of all other ordinances of the City not in conflict herewith.

5.

That any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction, be fined in an amount not more than \$500.00.

6.

That the caption and penalty clause of this ordinance shall be published in the Commercial Recorder, a newspaper of general circulation in the community.

7.

That this ordinance shall be in full force and effect from and after the date of its passage and publication.

(Agenda Item 9) Resolution 05-66, Sexual Assault Examinations Interlocal Agreement between Tarrant County Hospital District and Dalworthington Gardens Police Department.

On motion by Councilman Tedder, seconded by Councilman Piland, it was:

RESOLVED, that the Mayor is hereby authorized to execute on behalf of the City an Interlocal Agreement with Tarrant County Hospital District for sexual assault examinations.

RESOLVED FURTHER, that the City Secretary is hereby authorized to attest to the execution of the agreement and to affix the seal of the City thereto.

Motion passed by a vote of 5 ayes and 0 nays.

RESOLUTION NO. 05-66

A RESOLUTION AUTHORIZING THE EXECUTION OF A
CONTRACT WITH TARRANT COUNTY HOSPITAL DISTRICT FOR
CLINICAL AFFILIATION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor is hereby authorized to execute on behalf of the City an
Interlocal Agreement with Tarrant County Hospital District for sexual assault
examinations.

2.

That the City Secretary is hereby authorized to attest to the execution of the agreement and to
affix the seal of the City thereto.

**(Agenda Item 10) Resolution 05-67, Authorization for staff to pursue fish stocking program as
recommended by the Park Board.**

On motion by Councilman Tedder, seconded by Councilman Wallace, it was:

RESOLVED, that the staff pursue fish stocking program as recommended by
the Park Board.

Motion passed by a vote of 3 ayes from Councilman Tedder, Councilman
Wallace, Councilman Piland and 2 nays from Mayor Pro tem Snodgrass and
Councilman Pettke.

Resolution 05-67

**AUTHORIZATION FOR STAFF TO PURSUE FISH STOCKING PROGRAM AS
RECOMMENDED BY PARK BOARD.**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON
GARDENS, TEXAS:

That the staff pursue fish stocking program as recommended by the Park Board.

**(Agenda Item 11) Authorization for staff to pursue construction of bridge in Gardens Park by
Boy Scouts as recommended by the Park Board.**

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Pettke, it
was:

RESOLVED, that staff pursue construction of a bridge in the Gardens Park by Boy Scouts as recommended by the Park Board.

Motion passed by a vote of 5 ayes and 0 nays.

(Agenda Item 12) (Tabled) Park Board Donations budget designation.

No action was taken.

(Agenda Item 13) Ordinance 05-16, TMRS Military Service Credit Ordinance.

On motion by Councilman Pettke, seconded by Councilman Tedder, it was:

RESOLVED, that the TMRS Military Service Credit Ordinance be approved and placed in the records of the city.

Motion passed by a vote of 5 ayes and 0 nays.

TEXAS MUNICIPAL RETIREMENT SYSTEM

Ordinance 05-16

AN ORDINANCE ALLOWING CERTAIN EMPLOYEES OF THE CITY, WHO PERFORMED OR HEREAFTER PERFORM ACTIVE SERVICE IN THE ARMED FORCES (OR THEIR RESERVES OR AUXILIARIES) OF THE UNITED STATES UNDER HONORABLE CONDITIONS, TO APPLY AND RECEIVE SPECIAL CREDIT WITH THE TEXAS MUNICIPAL RETIREMENT SYSTEM FOR LIMITED PORTIONS OF SUCH MILITARY SERVICE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

Section 1. Pursuant to Section 853.502, Subchapter F of Chapter 853, Title 8, Government Code as amended, the City of Dalworthington Gardens hereby elects to allow eligible members in its employment to establish credit in the Texas Municipal Retirement System for active military service performed as a member of the armed forces or armed forces reserves of the United States or an auxiliary of the armed forces or armed forces reserves. Eligible members as used herein shall be those employees meeting the criteria set forth in Sections 853.502(b) and 853.503 of said Subchapter F, and the amount and use of creditable military service shall be as further set forth in Section 853.505.

Section 2. In order to establish credit for military service hereunder, a member must file with the Texas Municipal Retirement System a written application for the credit, together with satisfactory evidence of the member's military service.

Section 3. This ordinance shall become effective on the 1st day of November, 2005.

(Agenda Item 14) City Employee Payroll Direct Deposit Resolution.

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Tedder, it was:

RESOLVED, that the City Secretary, Melinda Brittain, be authorized to bring to the next Council meeting a contract to be signed to implement direct deposit, including all fees and one that could be implemented the next day.

(Agenda Item 15) Resolution 05-68, Motorcycle Lease Agreements.

On motion by Councilman Pettke, seconded by Councilman Tedder, it was:

RESOLVED, that the motorcycle lease agreements be approved subject to staff adding the other two officers with corresponding VINs.

RESOLUTION NO. 05 –68

A RESOLUTION AUTHORIZING
AGREEMENTS WITH CITY PEACE OFFICERS FOR MOTOR VEHICLE USE BY THE
DEPARTMENT OF PUBLIC SAFETY.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON
GARDENS, TEXAS:

1.

That the Mayor of the City is hereby authorized to execute on behalf of the City agreements between the Public Safety officers of the City, as named below, for the use of identified motor vehicles for public purposes.

<u>Officer</u>	<u>Vehicle description</u>
Joseph DelPrincipe	1HD1FHW166Y613928
Britt Stinson	1HD1SHW174Y728535
Greg Petty	WB10499A84ZE93030
A.J. Thomas	1HD1FHW195Y656917
Brent Wright	WB10418A31ZC70182
Mike Taylor	JKAKZEP2818518929

2.

That each agreement shall be made and entered into using the City's standard form of motor vehicle agreement, a copy of which is appended to this resolution. An executed original counterpart of each of the agreements shall be maintained on file in the office of the City Secretary.

3.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

Motion passed by a vote of 5 ayes and 0 nays.

(Agenda Item 16) Citizen request for zoning ordinance amendment in “B-3” Business District.

No action was taken.

Mayor Pro tem Snodgrass took the gavel and proceeded with the next item on the agenda.

(Agenda Item 17) Resolution 05-69, Three way contracts for Gardens Addition Phase II, Water and Sewer Taps.

On motion by Councilman Wallace, seconded by Councilman Tedder, it was:

RESOLVED, That the Mayor pro tem of the City is hereby authorized to execute on behalf of the City a three-party agreement with Tobi Taub, as Owner, and Rice Tunneling and Boring, Inc., as Contractor, for the construction of water and sanitary sewer improvements in The Gardens addition, Phase II, serving Lots 1 through 4 in Block 2, such execution to be conditioned upon the approval as to form of the contract and applicable bonds and insurance

RESOLVED FURTHER, that the City Secretary is hereby authorized to attest to the execution of the agreement and to affix the seal of the City thereto.

Motion passed by a vote of 5 ayes and 0 nays.

RESOLUTION NO. 05-69

A RESOLUTION AUTHORIZING EXECUTION OF WATER AND SEWER IMPROVEMENT CONTRACT FOR LOTS 1 -4, BLOCK 2, THE GARDENS PHASE II.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor pro tem of the City is hereby authorized to execute on behalf of the City a three-party agreement with Tobi Taub, as Owner, and Rice Tunneling and Boring, Inc., as Contractor, for the construction of water and sanitary sewer improvements in The Gardens addition, Phase II, serving Lots 1 through 4 in Block 2, such execution to be conditioned upon the approval as to form of the contract and applicable bonds and insurance.

2.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

(Agenda Item 18) (Tabled) Employee insurance and health savings accounts.

No action was taken.

(Agenda Item 19)(Tabled) Ordinance 05-17, Amending 15.5 concerning Flood Damage Prevention- FEMA.

On motion by Councilman Tedder, seconded by Councilman Piland, the item was taken off the table.

On motion by Councilman Tedder, seconded by Councilman Piland, it was

RESOLVED, that

ORDINANCE NO. 05-17

AN ORDINANCE OF THE CITY OF DALWORTINGTON GARDENS AMENDING TITLE 15: BUILDINGS AND CONSTRUCTION OF THE CITY CODE, BY AMENDING CHAPTER 15.5 - FLOOD DAMAGE PREVENTION, DEFINING TERMS; PROVIDING METHODS OF REDUCING FLOOD LOSSES IN THE CITY; REQUIRING DEVELOPMENT PERMITS; PROVIDING FOR THE ADMINISTRATION OF FLOOD DAMAGE PREVENTION; AND, ESTABLISHING GENERAL AND SPECIFIC STANDARDS FOR FLOOD HAZARD REDUCTION; REPEALING ORDINANCES IN CONFLICT HERewith; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES ON THE SUBJECT; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTIUNGTON GARDENS, TEXAS:

1.

That 15.5 - FLOOD DAMAGE PREVENTION, of TITLE 15: BUILDINGS AND CONSTRUCTION, of the Code of the City be amended so that hereafter the same shall be and read as follows:

Chapter 15.5 - FLOOD DAMAGE PREVENTION

ARTICLE I – INTRODUCTORY MATTERS

15.5.01 Statutory authorization The Legislature of the State of Texas has, Section 16.315 *et seq.* of the Texas Water Code, delegated to local governmental units the responsibility to adopt regulations designed to minimize flood losses.

15.5.02 Findings of fact

- A.** The flood hazard areas of Dalworthington Gardens 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 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.

15.5.03 Statement of purpose It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 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.
- H. Require that person's who knowingly occupy flood-prone areas assume full responsibility for their actions.

15.5.04 Methods of reducing flood losses In order to accomplish its purposes, this chapter 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 that serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, that are involved in the accommodation of flood waters;
- D. Control filling, grading, dredging and other development that may increase flood damage;
- E. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards to other lands.

F. Use any other method reasonably calculated to accomplish the purpose of this article and to promote the public health, safety and general welfare.

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

ALLUVIAL FAN FLOODING means flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APPEAL means a request for a review by the boards or commissions specified herein of the floodplain administrator's interpretation of any provision of this article or a request for a variance.

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 that 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 I-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 1 percent or greater annual chance of flooding to an average depth of 1 to 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 I 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, AO, AH, AI-30, AE, A99, AR, AR/AI-30, AR/AE, AR/AO, AR/AH, ARIA, VO, VI-30, VE or V.

BASE FLOOD means the flood having a 1 percent chance of being equaled or exceeded in any given year.

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 to 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.

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. For Zones AI-30, AE, A, A99, AG, AH, B, C, X, and D, has the top of the elevated floor, or for Zones VI-30, VE, or V, has the bottom of the lowest horizontal structural member of the elevated floor, elevated above ground level by means of piling, columns, posts and piers, or shear walls built parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of no greater magnitude than the base flood. For Zones AI-30, AE, A, A99, AG, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to allow for the unimpeded movement of flood waters. For Zones VI-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of 44 CFR Part 60, 60.3(e)(S) of the National Flood Insurance Program regulations.

EXISTING CONSTRUCTION means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date.

"Existing construction" may also be referred to as "existing structures."

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 the floodplain management regulations 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: (1) the overflow of inland or tidal waters; or (2) 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 or any amended or supplementary map, or any comparable or similar map that is a substitute or replacement therefor, as well as any revision thereto on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community. The flood insurance rate map shall also be referred to in this article as FIRM.

FLOOD INSURANCE STUDY (FIS) (see *Flood Elevation Study*) means the official report which is periodically issued 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).

FLOODPLAIN MANAGEMENT means the operation of an overall program of corrective and preventive 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, that provide standards for flood damage prevention and reduction. The term also includes any regulation promulgated:

- (a) by an approved state program as determined by the Secretary of the Interior or;
- (b) directly by the Secretary of the Interior in states without approved programs.

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 area within a community subject to a "special flood hazard" as described in section 15.5.02 herein 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 that cannot perform its intended purpose unless it is located or carried out in 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:

- (1) 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;

(2) 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;

(3) 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

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

(a) by an approved state program as determined by the Secretary of the Interior or;

(b) 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 flooding.

LEVEE SYSTEM means a flood protection system that consists of a levee, or levees, and associated structures, such as a closure and drainage devices, that are constructed and operated in accordance with sound engineering practice.

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of 44 CFR Section 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME means a structure transportable in one or more sections that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) days. The term "manufactured home" does not include a "recreational vehicle". For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two 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.

NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS means the regulations promulgated from time to time by appropriate Federal authority governing the National Flood Insurance Program. A copy of the National Flood Insurance Program regulations shall be maintained on file in the records under the custody and control of the floodplain administrator.

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.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure

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 floodplain management regulations adopted by a community.

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 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.

RIVERINE means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. or the condition of a body of water which is channelized and flowing either in a natural or improved condition.

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 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, 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 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. For a 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, for floodplain management purposes, 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 percent 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 50 percent of the market value of the structure before "start of construction" of the improvement either: (1) before the improvement or repair is started; or (2) before the damage occurred, if the structure has been damaged and is being restored. For the purposes of the 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. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term 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, a copy of which is on file in the records

under the custody and control of the floodplain administrator.)

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 National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE II - GENERAL PROVISIONS

15.5.06 Lands to which this chapter applies The chapter shall apply to all areas of special flood hazard with the jurisdiction of the City of Dalworthington Gardens.

15.5.07 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 report entitled, "The Flood Insurance Study (FIS) for Tarrant County and Incorporated Areas," dated August 23, 2000 (specifically panels 433J, 434J, 441 J and 442J), with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) or any amended or supplementary maps, or any comparable or similar map that is a substitute or replacement therefor, as well as any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter.

15.5.08 Establishment of Development Permit A Floodplain Development Permit is required to ensure conformance with the provisions of this chapter. Procedures to obtain such a permit are set forth in section 15.5.17 below.

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

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

15.5.11 Interpretation In the interpretation and application of this chapter, 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.

15.5.12 Warning and disclaimer of liability The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This chapter 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 chapter 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 chapter or any administrative decision lawfully made hereunder.

15.5.13 - 15.5.14 (Reserved)

ARTICLE III – ADMINISTRATION

15.5.15 Destination of Floodplain Administrator The Building Official is hereby appointed 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.

15. **15.5.16 Duties and responsibilities of 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 chapter;

B. Review permit application to determine whether 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 this chapter;

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 V.S.C. 1334) from which prior approval is required;

E. Review all applications for permits for development within a floodplain to determine if the proposed development is located in the floodway. Located in the floodway, assure that encroachment provisions of section 15.5.24.A. are met;

F. 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. The Floodplain administrator shall make such determinations in a reasonably prudent manner. When any such interpretation results in a determination that an area is not a special flood hazard, the issuance of any building permits for any part of the area subsequent thereto shall be subject to the applicants agreement to indemnify, hold harmless, and defend the City of Dalworthington Gardens and the floodplain administrator for any adverse consequences resulting from or related to such a determination;

G. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Commission on Environmental Quality, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

H. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained or increased.

I. When base flood elevation data has not been provided in accordance with 5.5.7 hereof, 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 Article IV hereof;

J. 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 AI-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; and

K. 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 AI-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by Section 65.12.

15.5.17 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 an appropriate scale acceptable to the administrator 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.

An area map drawn to an acceptable scale shall also be submitted which shows existing development which reflects the proposed alterations and existing and development and

structures within five hundred (500) feet of the floodplain within the area of development which reflects the proposed alterations and existing and proposed structures. The lowest finished floors of all existing structures shall be shown on the area map. Technical information will be required to satisfactorily evaluate the anticipated flood heights and velocities consistent with the provisions of this article and all other city policies pertaining to drainage. The applicant shall furnish the required information utilizing the services of a professional engineer or public land surveyor registered in the State of Texas as is applicable. 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 floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of 15.5.21 B hereof;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
5. Maintain a record of all such information in accordance with 15.5.16 A hereof;

B. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the

floodwaters and the effects of wave action, if applicable, expected at the site;

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

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

10. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area; and

11. The cumulative effects of development and the associated loss of storm water storage and/ or detention

1 **15.05.18 Variance procedures** Variance may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria outlined in paragraphs (A) – (M) below are met, and 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.

A. A request for a variance shall be submitted in writing to the floodplain administrator.

B. The Board of Development Appeals (herein the "Board"), as established by the City Council, shall hear and render judgment on requests for variances from the requirements of this chapter.

C. The Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter, other than that set forth in section 15.5.17 above may be appealed.

D. Any person or persons aggrieved by a decision of the Board may appeal such decision to a court of competent jurisdiction.

E. Denial of a variance concerning design standards for floodproofing which have been set forth in a nationally recognized standard to the city, shall be made to the Board. The board may only approve alternate methods and shall not approve the omission thereof.

F. 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.

G. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of

Historic Places, without regard to the procedures set forth in the remainder of this chapter.

H. Variances may be issued for new construction and substantial improvements to be erected on a lot of 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 15.5.17 B hereof have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

I. Upon consideration of the factors noted above and the intent of this chapter, the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.

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

K. 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.

L. 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 not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result. 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 (including future owners), or conflict with existing local laws or ordinances.

3. Any application to which a variance is granted shall be mailed by certified mail, return receipt requested, 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. Such notice shall be effective upon deposit in United States mail.

M. 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 15.5.18 I. 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.

15.5.19 - (Reserved)

ARTICLE IV - PROVISIONS FOR FLOOD HAZARD REDUCTION

15.5.20 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 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;

E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters 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 flood waters; and,

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

15.5.21 Specific standards In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) 15.5.7, (ii) 15.5.16 G., or (Hi) 15.5.23 C. hereof, the following standards shall apply:

A. Residential Construction New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated at least two (2) feet above the base flood elevation resulting from ultimate development of the watershed. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as provided in 15.5.17 A.(I) hereof, 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 the level of two (2) feet above the floodplain base flood elevation resulting from ultimate development of the watershed, 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.

C. Enclosures New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement with fully enclosed areas 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:

1. A minimum of two openings on separate walls having a total net area of not less than 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 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 floodwaters.

D. Manufactured Homes

1. All manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that 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.

2. All manufactured homes shall be in compliance with section 15.5.21.

3. Manufactured homes that are placed or substantially improved within Zones AI-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing

manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to a level two (2) feet above the floodplain base flood elevation resulting from ultimate development of the watershed and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. No manufactured home will be placed within a floodway.

5. Manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones AI-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

a. the lowest floor of the manufactured home is at a level two (2) feet above the base flood elevation, or

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

E. Recreational Vehicles Recreational vehicles placed on sites within Zones AI30, AH, and AE on the community's FIRM shall either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of 155.5.17 A. hereof, 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 its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

15.5.22 Standards for subdivision proposals

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with 15.5.02, 15.5.03 and 15.5.04 of this chapter.

B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of 15.5.08, 155.5.17, and the provisions of Article IV of this chapter.

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 is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to 15.5.07 or 15.5.16 G. of this chapter.

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.

15.5.23 Standards for areas of shallow flooding (AO/AH Zones) Located within the areas of special flood hazard established in 15.5.07 are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and

A. All new construction and substantial improvements of residential structures shall comply with the more stringent of the following provisions.

1. The lowest floor (including basement) elevated to a point equal to two (2) feet above the floodplain base flood elevation resulting from the ultimate development of the watershed or
2. The structure shall be elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

B. All new construction and substantial improvements of non-residential structures:

1. The more stringent of the following shall apply:

a. The structure shall have the lowest floor (including basement) elevated to a point equal to two (2) feet above the floodplain base flood elevation resulting from the ultimate development of the watershed; or

b. The structure shall be elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

2. Together with attendant utility and sanitary facilities, shall be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, the structure shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

C. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as provided in 15.5.17 A. 1. are satisfied.

D. Within Zones AH or AO, there shall be adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

15.5.24 Floodways Located within areas of special flood hazard established in 15.5.07 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that 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 when combined with all other existing and anticipated development and encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

B. If A. of 15.5.24 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article IV.

C. Under the provisions of 44 CFR Chapter I, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12 for application for a conditional FIRM and floodway revision through FEMA.

15.5.25 Penalties for noncompliance. No structure or land shall hereafter be located, altered or have its use changed without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) will constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00) for each violation, and each and every day the violation occurs shall constitute a separate violation. Nothing herein contained in this section or any other section of this article shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to refusal to approve a plat or to issue a building permit, or to obtain injunctive relief against the violator pursuant to Tex. Civ. Stat. Ann. Art. 1175f (Vernon's 1986) or any other statute, or any other legal remedy available to the city.

15.5.26 Abrogation and greater restrictions. This chapter is designed to be cumulative and

in no way abrogate other provisions of the state law, the City Code, ordinances, rules, approved policies of City and other governmental commissions and departments dealing with flooding, or any existing easements, covenants or deed restrictions. If there exists any apparent conflict or overlap between provisions of this chapter and other ordinances, rules or regulations, or any easements, covenants or deed restrictions affecting the property in question, the more stringent provision shall apply. All procedures and permits mandated by other provisions of the city's laws shall remain in full force and effect and are incorporated as if reproduced in full herein. Some examples of these other materials include the Zoning Ordinance (Title 17), the Land Development Ordinance (Title 16) and the International Building and Fire Code. There are federal and state laws that are and remain applicable to this subject matter.

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

15.5.28 Warning and disclaimer of liability The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.

15.5.29 Abatement

A. Order of abatement Whenever the floodplain administrator finds, that a violation of the provisions of the chapter has occurred, he shall advise the property owner of this violation in writing and direct said owner to abate the violation. For purposes of this chapter, said notice shall be mailed by certified mail and shall be effective when deposited in the mail addressed to the person or entity listed as the owner on the tax rolls of the City, regardless of whether such person or entity owns record title to the property or is otherwise the legal owner of the property. The notice shall detail the nature of the violation and shall establish a reasonable abatement period.

B. Extension of time Whenever an order has been given by the floodplain administrator to abate any violation of this chapter under the provisions of section 15.5.29(a), the owner thereof shall have the right, within the period of time given in the order for abatement, to appear at the office of the floodplain administrator with a written explanation to show cause why such order should not or cannot be complied with, and the floodplain administrator may, at his discretion, give such extension of time for the abatement or removal of such violation as may be necessary, provided that there is no

immediate danger to the public health, safety or general welfare.

C. Voluntary abatement The owner of any property found to be in violation under the provisions of this chapter may abate the violation at any time within the abatement period by repair or removal. The floodplain administrator shall be advised in writing by the owner of the property that the abatement has occurred and may inspect the premises to insure that the violation has been abated. Should any of the items which constitute a violation be placed on other public or private property without consent from the owner or person in control of such property, this will constitute a separate violation of this article and appropriate enforcement action shall be taken by the floodplain administrator.

D. Failure to voluntarily abate a violation. If a violation is not properly abated within the period established under the provisions of section IS.S.29(a), the city council shall hold a public hearing to determine if the violation should be abated under the police powers of the city.

E. Notice of public hearing A written notice of the public hearing before the city council shall be served on the property owner at least ten (10) days prior to the date set for the public hearing. Service shall be made upon the owner by personal service, or by certified or registered mail. If made by certified mail, services shall be effective on the date the notice is deposited in the United States mail. If there is no known address for the owner, the notice of the hearing shall be published in a newspaper of general circulation in the city at least ten (10) calendar days before the hearing. The failure of any person to receive such notice shall not affect the validity of the proceedings.

F. Hearing by the city council At the public hearing, the city council shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, city personnel and interested persons relative to such alleged violation and to proposed abatement measures. The hearing may be continued from time to time.

G. Decision of the city council Following the public hearing, the city council shall consider all evidence and determine whether the property, or any part thereof, constitutes a violation of this chapter as alleged. If the council finds that a violation does exist and that there is sufficient cause to abate the violation, the city council shall make a written order setting forth the findings and ordering the owner or other person having charge or control of the property to abate the violation by repair or removal in the manner and by the means specifically set forth in that order. The order shall set forth the time within which the abatement shall be completed.

H. Limitation on filing judicial actions Any owner or other person with a vested interest who is aggrieved by the decision of the city council ordering the abatement of any violation under the provisions of this chapter may contest such decision by filing a petition in court within ten (10) days of the date of the decision of the city council. Otherwise, the decision of the city council shall be deemed final and conclusive, and all

objections to such decision shall be deemed waived.

I. Service of abatement order Within five (5) days following the decision of the city council, the property owner and/or the person having charge or control of the premises shall be served with a copy of the written order in the manner provided in section 15.5.29 (e).

J. Abatement by property owner The property owner, or person having charge or control of the property, may at his own expense abate the violation as prescribed by the order of the city council prior to the expiration of the abatement period set forth in the order. If the violation has been inspected by a representative of the public works department and has been abated in accordance with the order, the proceedings shall be terminated.

K. Abatement by city If a violation is not completely abated within the time prescribed in the city council order, the floodplain administrator, or other designated city official, is authorized and directed to cause the violation to be abated by city forces or private contract. In furtherance of this section, the floodplain administrator or duly authorized agents, employees, contractors, subcontractors, or other representatives of the City are expressly authorized to enter upon the property to abate the violation.

L. Record of abatement costs

1. The floodplain administrator, or such other city official as the administrator may designate, shall keep an account of the costs (including incidental expenses) of abating the violation on each separate lot or parcel of land where the work is done and shall render an itemized report in writing to the city council showing the cost of abatement of said, violation including any salvage value relating thereto; provided that before said report is submitted to the city council a copy of the same shall be served on the property owner in the manner provided in section 15.5.29 (e), together with a notice of the time when said report shall be heard by the city council for confirmation.

2. The city council shall set the matter for hearing to determine the correctness and reasonableness of the abatement costs.

3. Written proof of the service of such report shall be made under oath and filed with the city secretary.

4. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the city in the preparation of notices, specifications and contracts, inspection of work (including survey if necessary), and costs of printing, mailing and publication required hereunder.

M. Report; hearing and proceedings The city council shall hear and pass upon the report of the abatement costs, together with any objections or protests.

Thereupon, the city council may make such revision, correction or modification in the report, as it may deem just, after which the report, as submitted or as revised, corrected or modified, shall be confirmed by the council. The decision of the city council on the correctness and reasonableness of abatement costs shall be final and conclusive.

N. Assessment of costs against property; lien

1. The total cost of abating such violation, as confirmed by the city council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and, upon recordation in the office of the county clerk of a notice of lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

2. After such confirmation and recordation, a copy of the notice of lien may be turned over to the county tax office, whereupon it shall be the duty of the tax collector to add the amounts of the respective assessments to the next regular city tax bills for said respective lots and parcels of land, and thereafter said amounts shall be collected at the same time and in the same manner as ad valorem taxes are collected and shall be subject to the same penalties and the same procedure under foreclosure and sale as in the case of delinquent ad valorem taxes.

3. At any time after recordation, such lien may be foreclosed by judicial or other sale in the case of delinquent ad valorem taxes.

4. The foregoing remedy shall not preclude a suit against any person violating this chapter who may be held personally liable for the cost incurred by the City in connection with such abatement procedures. The costs of abating any such violation shall constitute a personal liability of the person causing such abatement procedures to be necessary. In addition, the foregoing remedy shall not constitute the exclusive remedy available to the City, and such provisions shall not prevent said city from using any means legally available to it, with or without notice to the landowner, in the event of an emergency or other situation posing a serious threat to the public health, safety, or welfare.

2.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith.

3.

That this ordinance is hereby made cumulative of all other ordinances of the City not in conflict herewith.

4.

That 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.

5.

That 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; that 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; and, that any person violating any provision of this ordinance shall be punished in accordance with the provisions of Section 1.1.26 of the City Code: By a fine not exceeding five hundred dollars provided, that violations of ordinances which govern fire safety, zoning and public health and sanitation, other than vegetation and litter violations, shall be punished by a fine not to exceed two thousand dollars. For each day that a violation shall continue or be permitted to exist, there shall be deemed a separate violation. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

6.

That the caption and penalty clause of this ordinance shall be published in the Commercial Recorder, a newspaper of general circulation in the City, as provided by law.

7.

That this ordinance shall be in full force and effect from and after the date of its adoption and publication as provided by law.

(Agenda Item 20) Future agenda items

Michael Tedder requested that Petty's form be reviewed.

(Agenda Item 21) Adjourn

On motion by Councilman Tedder, seconded by Councilman Piland, the meeting was adjourned.

Albert A. Taub

ATTEST:

Melinda Brittain, City Secretary