

## ACTION ITEMS

Declaration of  
Surplus Equipment  
Agenda Item 10-C

# AGENDA MEMORANDUM

**MEMO TO:**

Honorable Mayor and City Council Members

**FROM:**

Danny Segundo, City Administrator

**DATE:**

October 7, 2020

**SUBJECT:**

Declaration of Surplus Equipment

**BACKGROUND/INFORMATION:**

Surplus items at the Senior Center, City Hall storage room, and Public Works Department are in need of being declared surplus equipment. The items are listed in Exhibit A for City Council to review.

These items no longer are needed and are in need of being disposed of by a method approved by the City Administrator. Items may be donated, sold for scrap, recycled, or disposed of by solid waste.

**RECOMMENDED COUNCIL ACTION:** Discuss, Consider approve or (disapprove) the Declaration of Surplus Equipment.

**ATTACHEMENTS:**

- 1) Exhibit A – Surplus Equipment List



## Exhibit A - Surplus Equipment

Quantity	Description	Make	Model/Vin #	Serial #	Condition	Department
29	Chairs	NA	NA	NA	Used/Avg	Senior
5	Plastic Chairs	NA	NA	NA	Used/Avg	Senior
1	Printer	HP	4250/4351	CNRXY02783	Broken	Admin
1	Computer	AT&T	3348-2053	15-30488247	Obsolete	Admin
1	Computer	Dell	DCSM	IZB7M81	Obsolete	Admin
1	Computer	HP	NV512UT#ABA	MXL0251GN7	Obsolete	Admin
1	Computer	HP	XP	2UA729-NS2	Obsolete	Admin
1	Computer	Packard	A940-TWR	Y131566318	Obsolete	Admin
1	Computer	Dell	4100 Series	CD73M01	Obsolete	Admin
1	Computer	Sigma System	54XMAX	565081	Obsolete	Admin
1	Computer	HP Compaq	NA	NZ288L7WBA	Obsolete	Admin
1	Hard Drive	Western Digital	AC23200	689006D	Obsolete	Admin
1	Hard Drive	Quantum	Fireball ST3.5	3240AT-ST32A3B1	Obsolete	Admin
1	Hard Drive	Hitachi	NA	PVE30125500W2M	Obsolete	Admin
1	Hard Drive	Maxtor	91000D515A16A34AGAS6C412	21AB4010NH00NL	Obsolete	Admin
1	Hard Drive	Seagate	ST320410A	5F53F3CC	Obsolete	Admin
1	Hard Drive	Western Digital	WDAC2540-00F	WTT307-033-8488	Obsolete	Admin
1	Hard Drive	Fujitsu	MPE306AT	1301917	Obsolete	Admin
1	Truck	GM – S10	1GCCS19X438278192	NA	Used	PW
1	Steam Table	Gusto	GU54w120-4	1155-01070172-004	Used	Senior

1	Monitor	Dell	1074FPVT	CN-0J6642-71618	Broken	Senior
1	Printer	Epson	C481E	SEYY063608	Broken	Senior
1	Monitor	Flatron	L1734SI	904UXXJX4F828	Broken	Senior
1	Monitor	Flatron	L1734SI	904UXXFV4F875	Broken	Senior
1	Tower	Lenovo	X01	MJ00129	Broken	Senior
1	Tower	Lenovo	X01	MJ00125	Broken	Senior
1	Desk	NA	NA	NA	NA	Senior

## ACTION ITEMS

Ordinance No. 20-006

Amending Ordinance No. 19-003

2018 Codes

Agenda Item 10-D

# AGENDA MEMORANDUM

**MEMO TO:**

Honorable Mayor and City Council Members

**FROM:**

Danny Segundo, City Administrator

**DATE:**

October 6, 2020

**SUBJECT:**

Amend Ordinance 19-003

**BACKGROUND/INFORMATION:**

Upon review of Ordinance 19-003, city staff is recommending minor changes within the ordinance. Exhibit A – Ordinance 19-003, the corrections are highlighted in red, for city council review.

The changes are minor and will not affect the process of enforcing and implementing the Ordinance. Interim Police Chief Otto Arnim and Patrol Sargent Watson suggested that the City include the Police Chief as an enforcement authority to regulate the fire code. The amended ordinance new number will be Ordinance 20-006.

**RECOMMENDED COUNCIL ACTION:** Discuss, Consider approve or (disapprove) Amending Ordinance 19-003.

**ATTACHEMENTS:**

- 1) Exhibit A – Ordinance 20-006

## ORDINANCE 20-006

**AN ORDINANCE OF THE CITY OF SOMERVILLE, TEXAS, ADOPTING THE 2018 EDITION OF THE FOLLOWING CODES, THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO- FAMILY DWELLINGS, THE INTERNATIONAL PROPERTY MAINTENANCE CODE, THE INTERNATIONAL EXISTING BUILDING CODE, THE INTERNATIONAL PLUMBING CODE, THE INTERNATIONAL FUEL GAS CODE, THE INTERNATIONAL ENERGY CONSERVATION CODE, THE INTERNATIONAL MECHANICAL CODE, THE INTERNATIONAL FIRE CODE; ADOPTING THE 2017 NATIONAL ELECTRICAL CODE; ADOPTING THE 2018 NFPA 101 LIFE SAFETY CODE; REPLACING ORDINANCES, 15-003; AMENDING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR PERMITS AND FEES; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, the public health, safety and welfare, require the adoption and enforcement of codes governing the issuance of permits for, inspection of, and completion of construction, alteration, additions, change of occupancy, relocation, demolition or restoration of new, existing or historic structures, and for building systems for structures within the City of Somerville, Texas; and

**WHEREAS**, the public health, safety and welfare will be served by updating certain codes heretofore adopted by the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERVILLE, TEXAS, THAT:**

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

**Section 2. Adoption of Building Codes.** The following building codes are hereby adopted.

**A. BUILDING CODES ADOPTED**



(1) **International Building Code (IBC) Adopted**

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the “International Building Code,” 2018 edition, including Appendix Chapters E, F, G, H, J and K, published by the International Code Council, is hereby adopted as the building code of the city, establishing the minimum regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and each and all of the regulations, provisions, conditions and terms of such “International Building Code,” 2018 edition, published by the International Code Council, on file in the office of the city secretary are hereby referred to, adopted and made part of this section as if fully set out in this article.

(b) *Amendments.* The International Building Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

109.3      **Building permit valuations.** This section shall be deleted in accordance with the Acts of the 86<sup>th</sup> Texas Legislature House, Bill 852, prohibiting the use or requiring disclosure of the value of, or the cost of improving or constructing a residential dwelling for determining a building permit or inspection fee, or as a condition of issuing a building permit, except as required by FEMA for participation in the NFIP.

113.1      **General.** The las sentence of this section shall be altered as follows: “*The board ~~shall~~ may adopt rules of procedure for conducting its business.*”

113.3      **Qualifications.** This section shall be deleted, and the requirements the ordinance governing the Board of Adjustments and Appeals shall govern.

116                      **Unsafe Structures and Equipment.** All references to the building official shall be read to include the Code Enforcement Authority as defined in the Dangerous Buildings and Nuisance Ordinances of the City of Somerville. All requirements for notice and methods of service herein related

to nuisance conditions or dangerous buildings cases shall comply with the local city ordinances governing these conditions and the abatement thereof.

1612.3 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 Somerville, Texas" as adopted and amended from time to time with accompanying Flood Insurance Rate Maps and Flood Boundary- Floodway Maps (FIRM and FVFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

## **(2) International Residential Code (IRC) Adopted**

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the "International Residential Code for One- and Two- Family Dwellings," 2018 edition, including Appendix Chapters E, H, I, and J, and also including informative Appendix Chapters A, B, C, D, G, N, and P which are included for reference and illustrative purposes, and are not part of the code, all as published by the International Code Council, is hereby adopted as the residential building code of the city regulation and controlling the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of one- and two-family dwellings and townhouses in the City: providing for the issuance of permits and collection of fees; and each and all of the regulations, provisions, conditions and terms of such "International Residential Code for One- and Two-Family Dwellings," 2018 edition, published by the International Code Council, on file in the office of the city secretary are hereby referred to, adopted and made part of this section as if fully set out in this article.

(b) *Amendments.* The International Residential Code for One- and Two-Family Dwellings is amended as follows:

**Jurisdiction.** Each Reference to "Jurisdiction" or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

<b>Table R301.2(1)</b>	<b>Climatic and Geographic Design Criteria</b>
Ground Snow Load	5 PSF
Wind Speed	115 MPH
Seismic Design Category	R301.2 (2), IRC 2018

Weathering	Negligible
Frost Line Depth	12"
Termite	Heavy
Decay	Slight to Moderate
Winter Design Temp.	28°F
Flood Hazards	Current FEMA Ordinance, as adopted by the City of Somerville

**Section R313.2 One- and Two-Family Dwellings Automatic Fire Sprinkler Systems.**

This section shall be deleted in its entirety, including the Exception.

R105.3.5 This section is deleted in its entirety.

**R106.2 Site Plan or Plot Plan.** This section shall be deleted and replaced with the following: *“The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on this site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain for a site plan or plot. The building official is authorized to waive or modify the requirement for a site plan where the application for permit is for alteration or repair or where otherwise warranted.”*

**R108.3 Building permit valuations.** This section shall be deleted in accordance with the Acts of the 86<sup>th</sup> Texas Legislature House, Bill 852, prohibiting the use or requiring disclosure of the value of, or the cost of improving or constructing a residential dwelling for determining a building permit or inspection fee, or as a condition of issuing a building permit, except as required by FEMA for participation in the NFIP. Any other sections of this code requiring or referring to disclosure of the value of a residential structure or the value of the work or cost to install such work shall also be deleted in keeping with this section.

**R112.1 General.** This section is amended by amending the following sentence as indicated: “The board ~~shall~~ may adopt the rules of procedure for conducting its business...”



**R112.3 Qualifications.** This section shall be deleted, and the requirements of the Board of Adjustments and Appeals Ordinance shall govern.

**P2603.5.1 Sewer Depth.** Insert the number “12” in each of the blanks provided.

**Appendix E Manufactured Housing Used as Dwellings.** In the event of any conflict between this section and any of the provisions of the Manufactured Home Ordinance of the City of Somerville, the Ordinance shall control. Site plans or plot plans as per section R106.2 are required for the installation of new manufactured homes, unless the requirement is waived by the building official.

### **(3) International Property Maintenance Code (IPMC) Adopted**

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the “International Property Maintenance Code,” 2018 edition, published by the International Code Council is hereby adopted as the property maintenance code of the city for the control of building and structures as provided; and each and all of the regulations , provisions, conditions and terms of such “International Property Maintenance Code,” 2018 edition, published by the International Code Council, on file in the office of the city secretary are hereby referred to, adopted and made a part of this section as if fully set out in this article.

(b) Amendments. The International Property Maintenance Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas.

**§103.1 General.** This code shall be enforced by the Code Enforcement Authority. The Code Enforcement Authority is the person or persons designated by the City Administrator for purposes of making inspections, sending notices, and otherwise enforcing the provisions of this Code. Each reference to the Code Official hereafter shall mean the Code Enforcement Authority.

**§103.5. Fees.** Fees as adopted by the City Council.

**§107 Notices and Orders.** The notice and order procedures set forth in Section 107 shall not apply to notices required to be given in the course of the process to abate dangerous buildings, as set forth in the City’s Dangerous Building Ordinance or nuisance violations as set forth in the City’s Nuisance Ordinance.

§108, 110 & 111

Sections 108, 110 and 111 revised to the extent of any conflict with Dangerous Buildings Ordinance, Board Ordinance, Nuisance Abatement Ordinance, and Chapter 214, Tex. Local Gov't Code, as amended from time to time. Sections 108.2, 108.3, 108.4, 108.5, and 111.2 are hereby deleted.

§112.4 **Failure to Comply.** Fines and penalties for violation of this code related to activities governed by the Dangerous Buildings Ordinance and Nuisance Abatement Ordinance shall be as set out in those ordinances.

§301.3 **Vacant Structures and Land,** shall be amended to add subsections “1” through “7” to read as follows:

301.3.1. All exterior doors and windows shall be kept in sound working condition and free of broken glass.

301.3.2 All exterior doors shall be equipped with a workable lock or locking device and shall be kept securely locked during the period of time said building is vacant.

301.3.3 All windows shall be secured by a latch or lock or other means so as to prevent easy entry into said structure by children or vagrants or other unauthorized persons.

301.3.4 All exterior walls and roofs shall be kept in good repair free of cracks and holes, defective materials, and structural deterioration to keep such building from becoming a breeding place for rodents, insects, and roaches.

301.3.5 The exterior of said building or structure and the premises thereon shall be kept free of any accumulation of paper, hay, moss, or other combustible or flammable rubbish or waste material that has gathered in sufficient quantities to constitute a danger to said building or any other building or premises in case such waste is ignited.

301.3.6 The exterior of the premises shall be kept free of any accumulation of trash, garbage, rubbish, or any waste material as to constitute an unsanitary condition.

301.3.7 Fences shall be maintained in good repair and gates, if present, shall be locked at all times. Keys or other means of access shall be provided to the fire department for such premises.

§301 **General.** This section shall be amended by the addition of subsection 301.4, **Construction**, to read as follows: *“Each contractor and property owner or occupant shall be responsible for maintaining a construction site so that building materials and debris will be contained within the property boundaries of the*

*property upon which the construction is performed. Litter or other debris, including mud and dirt that are deposited on any public or private premises, other than the property upon which the construction is being performed, due to normal construction, remodeling, or landscaping activities shall be promptly removed by the contractor and/or property owner or occupant. Disposal of construction debris is the responsibility of the owner or his agent or contractor and shall not be put at the curb for city collection.”*

§302.4 Twelve inches (12”) shall be inserted in the blanks provided.

§302.7 **Accessory Structures.** *The following phrase shall be added to Section 302.7: “All accessory structures shall be protected from the elements by painting, staining or other waterproofing or surface treatments.”*

§302 **Exterior Property Areas.** This section shall be amended to add subsection

302.10, **Fences**, with subsections “1” through “5”, to read as follows:

**302.10 FENCES.**

302.10.1 All fences shall be maintained in structurally sound condition and shall not be visibly list or lean.

302.10.2 All holes or damaged or missing boards or portions of fences shall be replaced with comparable materials, and the fence shall be kept free of deterioration.

302.10.3 A fence that has deteriorated to the point that it is likely to fall shall be repaired, replaced, or removed.

302.10.4 Fences shall not be externally braced in lieu of repairing posts columns or other structural members.

302.10.5 All damaged or missing parts of chain linked fences shall be repaired or replaced.

§302.7 **Accessory Structures** shall be amended to add subsection 302.7.1 **Use of Recreational Vehicles** with subsections “1” through “4” as follows:

302.7.1.1 In this section a recreational vehicle shall be defined as a vehicle, self-propelled or designed to be towed and intended to be used for temporary occupancy and shall include, but not limited to, campers, motor homes, travel trailers, 5<sup>th</sup> wheel travel trailers, or any similar vehicles used or designed for such purpose.

302.7.1.2 Recreational vehicles may be parked and stored on private property in accordance with city ordinances provided that the vehicles are maintained clean, in good condition, in the closed position (for sliders or pop-outs), with functional tires and hitches as appropriate. Hoses, power cords, and

accessories shall be contained within the vehicle, unless being used to prepare for travel or returning from travel for cleaning and preparation for storage.

302.7.1.3 Recreational vehicles shall not be used as residences or permanent occupancy; or for accessory purposes such as playhouses, offices, she sheds, man caves, guest rooms, or for the storage of household goods, seasonal clothing, inventory, stock, junk, garbage, or any other item not directly related to and reserved for the temporary recreational use of such vehicle.

302.7.1.4 Any recreational vehicle not maintained as required herein, used for storage, or found to be connected to city utilities, whether temporarily or with a permanent connection, except as provided for in the Recreational Vehicle Ordinance shall be considered a nuisance and shall be brought into compliance with these requirements or shall be removed in accordance with the Nuisance Abatement Ordinance of the city of Somerville.

§304.14 The following phrase shall be inserted in the blank provided:  
*“April 1 to November 1, unless functioning AC is provided.”*

§308 Section 308 shall be revised to the extent of any conflict with the Nuisance Abatement Ordinance.

§602.3 & §602.4 “October 1 through April 1” shall be inserted in the blanks provided.

#### **(4) International Existing Building Code (IEBC) Adopted**

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the “International Existing Building Code,” 2018 edition, including all Appendix Chapters, published by the International Code Council, is hereby adopted as the Existing Building Code of the City of Somerville, for regulating and governing the repair, alteration, change of occupancy, addition, and relocation of existing buildings, including historic buildings as herein provided, and each and all of the regulations, provisions, conditions and terms of such “International Existing Building Code,” 2018 edition, are hereby referred to, adopted and made a part of this section as if fully set out in this article.

(b) *Amendments.* The International Building Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

§108.3 **Building permit valuations.** This section shall be deleted in accordance with the Acts of the 86<sup>th</sup> Texas Legislature House, Bill 852, prohibiting the use or requiring disclosure of the value of, or



the cost of improving or constructing a residential dwelling for determining a building permit or inspection fee, or as a condition of issuing a building permit, except as required by FEMA for participation in the NFIP.

§112.3        **Qualifications.** This section shall be deleted, and the requirements the ordinance governing the Board of Adjustments and Appeals shall govern.

§115        **Unsafe Buildings and Equipment.** All references to the building official shall be read to include the Code Enforcement Authority as defined in the Dangerous Buildings and Nuisance Ordinances of the City of Somerville. All requirements for notice and methods of service herein related to nuisance conditions or dangerous buildings cases shall comply with the local city ordinances governing these conditions and the abatement thereof.

#### **(5) International Plumbing Code (IPC) Adopted**

(a) That certain document, one copy which is on file in the office of the city secretary, being marked and designated as the “International Plumbing Code,” 2018 edition, including Appendix Chapters C, D, and E, published by the International Code Council, is hereby adopted as the plumbing code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use ore maintenance of plumbing systems in the city; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, conditions and terms of such “International Plumbing Code,” 2018 edition, published by the International Code Council, on file in the office of the city secretary, are hereby referred to, adopted and made a part of this section as if fully set out in this article.

(b) Amendments. The International Plumbing Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

§106.6.2.        Fees as adopted by the City Council

§106.6.3.        Delete this section

§108.4 and 108.5        See Section 4 of this ordinance

§305.4.1. **Sewer depth.** Building sewers that connect to private sewage disposal systems shall be a minimum of 12 inches below finished grade at the point of

septic tank connection. Building sewers shall be a minimum of 12 inches below grades.

**§903.1 Roof Extensions.** All open vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where a roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.

#### **(6) International Fuel Gas Code (IFGC) Adopted**

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the “International Fuel Gas Code,” 2018 edition including all appendix chapters, published by the International Code Council, is hereby adopted as the fuel gas code of the city for the control of building and structures as provided; and each and all of the regulations, provisions, conditions and terms of such “International Fuel Gas Code,” 2018 edition, published by the International Code Council, on file in the office of the city secretary are hereby referred to, adopted and made a part of this section as if fully set out in this article.

(b) Amendments. The International Fuel Gas Code is amended as follows:

Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas.

§106.6.2        Fees adopted by the City Council

§106.6.3        This section is deleted in its entirety

§108.4 and 108.5        See Section 4 of this ordinance

#### **(7) International Energy Conservation Code (IECC) Adopted**

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the “International Energy Conservation Code,” 2018 edition, published by the International Code Council, is hereby adopted as the energy conservation code of the city for then regulation and governance of energy efficient building envelopes and the installation energy efficient mechanical, lighting and power systems as provided; and each and all of the regulations, provisions, conditions and terms of such “International Energy Conservation Code,” 2018 edition, published by the International Code Council, on file in the office of the city secretary are hereby referred to, adopted and made a part of this section as if fully set out in this article, except that the provisions of the Texas Health Code as noted below shall govern in the event of a conflict between the statute and this code.

(b) Amendments. The International Energy Conservation Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

C101.4 This section shall be amended as follows: This code is amended to the extent of any conflicts with the requirements of the Texas Health Code, Title 5, Subtitle C, Chapter 388. Texas Building Energy Performance Standards, which shall govern, unless the requirements of this code are more restrictive.

C109 **Board of Appeals.** This section is deleted in its entirety.

R102.4 This section shall be amended as follows: This code is amended to the extent of any conflicts with the requirements of the Texas Health and Safety Code, Title 5, Subtitle C, Chapter 388. Texas Building Energy Performance Standards, which shall govern

R109 **Board of Appeals.** This section is deleted in its entirety.

#### **(8) International Mechanical Code (IMC) Adopted**

(a) That certain document, one copy of which is on file in the office of the city secretary, being marked and designated as the “International Mechanical Code,” 2018 edition, published by the International Code Council, is hereby adopted as the mechanical code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilating, cooling, refrigeration systems, incinerators or other miscellaneous heat-producing appliances in the city: providing for the issuance of permits and collection of fees therefore: and each and all of the regulations, provisions, conditions and terms of such “International Mechanical Code,” 2018 edition, published by the International Code Council, on file in the office of the city secretary are hereby referred to, adopted and made a part of this section as if fully set out in this article.

(b) Amendments. The International Mechanical Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

§106.5.2. Fess schedule adopted by the City Council

§106.5.3 This section shall be deleted in its entirety

§108.4 and 108.5 See Section 4 of this ordinance.



**(9) National Electrical Code (NEC) Adopted.**

(a) There is hereby adopted by the City for the purpose of establishing rules and regulations for the construction, alteration, removal and maintenance of electric wiring and apparatus, including permits and penalties, that certain electrical code known as the National Electrical Code of the National Fire Protection Association, being particularly the 2017 edition of the National Electrical Code, save and except such portions as are hereafter deleted, modified or amended, of which no less than one copy has been and now is filed in the office of the City Secretary. Such code is hereby adopted and incorporated as fully if set out at length in this section, and the provisions of such code shall be controlling in the construction, alteration, maintenance or removal of all electric wiring and apparatus within the corporate limits of the City.

(b) Amendments. The National Electrical Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

**Conductors.**

(1) All conductors shall be copper only.

(2) Exception: The use of copper conductors or series 8000 aluminum conductors or better may be permitted from below the point of metering to the distribution panel, as long as the distribution panel is located outside the structure.

(3) All conductors shall be installed as per the National Electric Code.

**(10) International Fire Code (IFC) Adopted.**

(a) There is hereby adopted by the City for the purpose of regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials, and devices and from conditions hazardous to life or property in the occupancy of buildings or premises in the City of Somerville, that certain fire code known as the International Fire Code of the International Code Council including Appendices B, C, D, F, H, I and K, and those appendices intended to be instructive and informative but not for adoption (Appendices E and G), being particularly the 2018 edition of the International Fire Code, save and except such portions as are hereafter deleted, modified or amended, of which no less than one copy has been and now is filed in the office of the City Secretary. Such code is hereby adopted and incorporated as fully as if set out at length in this section, and



the provisions of such code shall be controlling within the corporate limits of the City.

(b) Amendments. The International Fire Code is amended as follows:

**Jurisdiction.** Each Reference to “Jurisdiction” or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas

§103 **Department of Fire Prevention.** Sections 103.1, 103.2, and 103.3 shall be deleted in their entirety. The provisions of this code shall be administered and enforced by the City Administrator or his designated agent or agents including but not limited to, the Building Official, Building Inspector, Fire Chief, **Police Chief**, and Code Enforcement Authority. Every reference to the Fire Code Official in the code shall be construed to mean the appropriate designated or assigned official or staff member.

§104.6 **Official records.** This section shall be deleted in its entirety. All records pertaining to the activities, permits, inspections and approvals set forth in this Code shall be subject to the open records and retention requirements as set forth in the Texas Government Code Chapter 552.

§109,110,111. These sections are revised to the extent of any conflict with the Dangerous Buildings Ordinance, Board Ordinance, Nuisance Abatement Ordinance, and Chapter 214, Tex. Local Gov’t Code, as amended from time to time. Sections 109, 110.3, 110.4, 111.3 and 111.4 are hereby deleted. In the sections related to unsafe buildings, notice of such building or violation shall be provided to the Code Enforcement Authority, in accordance with the Dangerous Buildings Ordinance.

§112 **Stop Work Order.** This section shall be amended to the extent of any conflicts with this ordinance related to Stop Work Orders. Section 112.4 shall be deleted and the penalties for failing to comply with a Stop Work Order shall be as provided for in Section 4.

§113 **Service Utilities.** This section shall be deleted in its entirety. The disconnection of city utilities shall, if necessary, be undertaken in accordance with the Water and Wastewater Ordinance of the city of Somerville as amended from time to time.

### Chapter 3- **General Requirements**

This chapter shall be amended to the extent of any conflicts with the Texas Outdoor Burning Rule (30 TAC 111.201-221) and as follows:

§307.1 **General.** Outdoor fires and burning operations shall not be permitted within the city limits except

as specifically permitted herein, and exempted activities shall be performed in accordance with the General Requirements for Outdoor Burning to protect public health and safety and the environment (30 TAC 111.219). This chapter shall not apply or impact city operations at the CCF, at the designated burn site.

§307.1.1 Prohibited Open Burning. This section shall be amended to read as follows: Open burning is prohibited whenever wind and other meteorological conditions fail to meet the requirements of TAC 30. Disposal fires for trash or debris are strictly prohibited. No outdoor burning is permitted during a Burn Ban issued by the Commissioner's Court of Burleson County under any circumstance.

§307.1.2 Exceptions. Outdoor burning shall be authorized for fires used solely for recreational or ceremonial purposes, or in the non-commercial preparation of food, or used exclusively for supplying warmth during cold weather, subject to conditions and restrictions of TAC 30 111.219. Examples of permitted activities include: use of grills, BBQ pits, and outdoor kitchens for personal use or public events, the use of portable decorative devices such as chimineas or fire pits, and ceremonial use of hand-held candles under certain circumstances. Bonfires and ground campfires are not permitted activities.

§307.1.3 On-site Burning of Waste Plant Growth and Land Clearing Operations. Burning of trees, brush, branch trimmings, and similar waste plant growth may be permitted on parcels of five (5) acres or more, subject to the following:

- a. In this section, Land Clearing Operation shall mean the uprooting, cutting, or clearing of vegetation in connection with conversion for the construction of buildings, rights-of-way, residential, commercial, or industrial development, or the clearing of vegetation to enhance property value, access, or production. It does not include the maintenance burning of on-site property wastes such as fallen limbs, branches, or leaves, or other wastes from routine property clean-up activities.
- b. In this section, Structure Containing Sensitive Receptor(s) shall mean a manmade structure utilized for human residence or business, the containment of livestock, or the housing of sensitive live vegetation. The term "man-made structure" does not include such things as range fences, roads, bridges, hunting blinds, or facilities used solely for the storage of hay or other livestock feeds. "Sensitive receptors" include humans and livestock, and "sensitive live vegetation" (vegetation that has potential to be damaged by smoke and heat, examples of which include, but are not limited to, nursery production, mushroom cultivation, pharmaceutical plant production, or laboratory experiments involving plants.
- c. The material must be burned on the land it grew on.

d. The owner of the property must obtain a permit from the city prior to commencing any burning activities. The request for a permit must include the owner's name and contact information, the name and contact number for the person carrying out the activities if not the property owner, identification of the property, a site plan (showing the property, the general location of the disposal fire on the property, the location of adjacent roads, alleys, all property lines, or structures with sensitive receptors), the anticipated burn date, estimated quantity of material to be burned, and an acknowledgement of the General Requirements for Outdoor Burning applicable to the action.

e. Commence or continue burning only when the wind direction and other weather conditions are such that the smoke and other pollutants will not present hazard to any public road, landing strip, or navigable water (e.g., lake, river, stream, or bay) or have an adverse effect on any off-site structure containing "sensitive receptors" (e.g., a residence, business, farm building or greenhouse). The person obtaining the permit is responsible for determining the direction and speed of the wind, whether winds are expected to shift, whether the area is under a temperature inversion, and whether high ozone levels are forecast before conducting outdoor burning.

f. Located disposal fires so as to limit the possibility of smoke blowing across a highway or road. If at any time the burning causes, or may tend to cause, smoke to blow onto or across a road or highway, post someone to flag traffic, and notify city hall.

g. Keep fires downwind of, and at least three hundred (300) feet away from, any neighboring structure that contains sensitive receptors.

h. Do not start burning unless weather conditions are such that smoke will dissipate (winds of at least six (6) miles per hour; no temperature inversions) while still allowing the fire to be contained and controlled (winds no faster than twenty-three (23) miles per hour).

i. Begin burning no earlier than one (1) hour after sunrise. Cease burning the same day no later than one (1) hour before sunset. The owner or his agent(s) shall be present while the burn is active and the fire is progressing; such agent shall be responsible for and capable of managing and monitoring the fire.

j. At the end of the burn, extinguish isolated residual fires or smoldering objects if the smoke they produce can be a nuisance or a traffic hazard.

k. Do not burn any electrical insulation, treated lumber, plastics, non-wooden construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, chemical wastes, or items that contain natural or synthetic rubber. Do not mix trash, litter or debris with the plant material in the disposal pile.



l. The property owner and the owner's agent (if applicable) shall be liable for damages, injuries, or other consequences that may result from burning, even when it is carried out in compliance with these regulations and the TCEQ Outdoor Burning Regulations.

m. Regardless of the issuance of a permit by the city, the fire must be extinguished immediately upon verbal or written notification of the owner or the owner's agent by the city or any other regulatory agency responsible for fire, burning or environmental regulations. Failure to comply with such order or any condition referenced or described herein is a violation of this ordinance and may result in a citation or other penalties as provided by law.

**(11) NFPA 101 Life Safety Code.**

(a) There is hereby adopted by the City for the purpose of providing minimum requirements, with due regard to function, for the design, operation and maintenance of buildings and structures for safety to life from fire and similar emergency conditions in the City of Somerville, that certain Life Safety Code known as NFPA 101 Life Safety Code as published by the National Fire Protection Agency, being particularly the 2018 edition of such Code, of which no less than one copy has been and now is filed in the City Hall of the City of Somerville. Such Code is hereby adopted and incorporated as fully as if set out at length in this section, and the provisions of such code shall be controlling within the corporate limits of the City.

(b) Each Reference to "the Authority Having Jurisdiction (AHJ)" or location for insertion of name of jurisdiction shall mean the City of Somerville, Texas.

(c) Where the provisions of the NFPA 101 conflict with the provisions of the IFC or the IEBC as adopted by the City of Somerville, the more restrictive provisions shall govern subject to the review and interpretation of the Building Official. Any sections of this code in conflict with local, state, or federal regulations shall be amended to the extent of such conflict and the local state or federal regulation shall govern.

**Section 3. Permits and Inspections**

**A. PERMITS AND INSPECTIONS REQUIRED.**

(1) All permits required in this ordinance or in the codes adopted herein or in other ordinances of the city shall be obtained prior to the commencement of construction. "Commencement of Construction" means the performance of physical activities on public or private property which result in changes which are visible to any person inspecting or observing the site and are recognizable in the sole judgement of the city, as the initial steps for the preparation of land or the

installation of improvements or fixtures. Such activities include clearing and grading land, layout of foundations, excavation of foundation footing, fencing the site, stockpiling of materials or supplies, or installation of temporary structures. Such activities also include the severance of existing improvements or fixtures.

(2) No building or structure or part thereof, shall be hereafter constructed, erected, altered, demolished, moved, or placed within the City of Somerville unless all appropriate permits to comply with this ordinance and the Building Codes referred to herein shall have first been issued for such work. Work done prior to or without the issuance of a required permit shall be subject to the penalties per Section 4, and may be subject to increased permit fees as per the fee schedule adopted by the city.

(3) No permit shall be issued by the City for connection to the City's water and wastewater services or the installation of a private sewage facility upon any lot in a subdivision for which a final plat has not been approved by the City of Somerville, Texas and filed for record.

(4) Before, or concurrently with, a request for a building permit for new construction on a lot that has not previously been served by city utilities, or that is part of a recorded but undeveloped subdivision, or that is part of unrecorded subdivision, the owner, developer or their agent shall comply with the requirements for submitting a site or plot plan, unless the lot or parcel is part of an approved Final Plat of a subdivision of the City of Somerville. No building permit shall be issued, and no construction work shall commence until such time as the site or plot plan has been approved

(5) Any owner may make minor improvements and ordinary repairs on any structure without a permit, as described in the codes adopted herein, provided that such improvements and repairs conform to all applicable building laws and codes. The Building Official shall have the right to inspect all such improvements or repairs and determine whether a permit is necessary.

(6) Homeowner exemption.

a. Nothing in the ordinance shall prohibit any person from installing electrical conductors or electrical equipment within a single-family dwelling owned and occupied by the person. The work shall be performed by the owner/occupant only, and no person shall be employed to assist the homeowner in any way with such work, unless said contractor is duly licensed by the State of Texas for such work and has provided proof of licensure and insurance to the city.

b. Nothing in this ordinance shall prohibit a person from installing or altering plumbing in his homestead (a residence owned and occupied by the person doing the work) provided that the homeowner does the work himself. No person shall be employed to assist the homeowner in any way with such work, unless said



contractor is duly licensed by the State of Texas for the work and has provided proof of licensure and insurance to the city. Proof of homestead status may be verified with BCAD records.

c. Nothing in the ordinance shall prohibit any person from performing mechanical and HVAC work in a single-family residence owned solely by the person as the person's home. The work shall be performed by the owner/occupant only, and no person shall be employed to assist the homeowner in any way with such work, unless said contractor is duly licensed by the State of Texas for such work and has provided proof of licensure and insurance to the city.

d. If a homeowner elects to do eligible work himself, he shall provide evidence sufficient to the city that he owns and occupies the structure, building or property on which the work is to be performed prior to the issuance of any permit. Property intended for rental or immediate subsequent sale (flipping, investment property) is not eligible for this exemption.

e. Exempted work under this section is subject to permit requirements, inspections, and the correction of any work that does not meet the codes adopted herein. Additional inspections may be required and shall be charged at cost. If plumbing or electrical work does not meet code and is not corrected promptly, the building may be deemed substandard or dangerous and abated in accordance with the Dangerous Building Ordinance of the City of Somerville.

(7) Fees for permits and inspections shall be set forth in Ordinance 19-005, "Appendix A, Fee Schedule for Construction and Planning," as adopted by the City of Somerville and as amended from time to time.

**Section 4. Penalty.** Penalty provisions in the referenced codes shall be subordinate to this ordinance and state law.

**A. PENALTY; STOP ORDERS.**

(1) Any person who shall violate any of the provisions of this Chapter or the technical codes adopted herein, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed \$500.00, provided that violations of any regulations adopted herein governing fire safety or public health and sanitation, including dumping of refuse, may be punishable by a fine not to exceed \$2,000.00. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(2) Whenever any building work is being done contrary to the provisions of this Chapter, the codes adopted herein, or another controlling ordinance or statute governing such work, the Building Official or Code Enforcement Authority designated by the City Administrator may order the work stopped by notice given

verbally or in writing served on any persons engaged in the doing of or causing such work to be done and the City shall post a STOP WORK ORDER on the property adjacent to the posted building permit (if such exists), and any such persons shall forthwith stop such work until authorized by the Building Official or Code Enforcement Authority to proceed with the work. If no permit has been issued, all work shall stop until a permit has been properly issued and all errors corrected to the satisfaction of the Building Official or Code Enforcement Authority. The Building Official or Code Enforcement Authority may also issue a Work Correction Order, which shall be served upon any persons who are working on a certain aspect of the construction project. The work on other aspects of the construction not in violation of the City's ordinances may proceed, but work shall cease as to that aspect in violation of the City's ordinances.

**Section 5. Amendment of Ordinances.**

Ordinance 15-003 of the City of Somerville is hereby repealed, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or ordinance of the city, the terms and provisions of this ordinance shall govern.

**Section 6. Savings Clause.**

All rights and remedies of the City of Somerville are expressly saved as to any and all violations of the provision of any ordinances affecting building construction, building codes, fire codes, plumbing codes, mechanical codes, electrical codes and all other codes affected hereby including permit issuance, or contractor registration with the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in

court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**Section 7. Open Meetings.**

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

**Section 8. Effective Date.**

This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't Code.

**Section 9. Publication.**

The City Secretary of the City of Somerville is hereby ordered and directed to cause this ordinance to be published as required by state law.

PASSED AND APPROVED on First Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_ Ayes \_\_\_\_\_ Noes \_\_\_\_\_ Abstentions.

ATTEST:

CITY OF SOMERVILLE, TEXAS

\_\_\_\_\_  
Rose Rosser, City Secretary

\_\_\_\_\_  
Micheal Bradford, Mayor



## ACTION ITEMS

Ordinance No. 20-005

Amending Ordinance No. 10-009

Flood Plains

Agenda Item 10-E

# AGENDA MEMORANDUM

**MEMO TO:**

Honorable Mayor and City Council Members

**FROM:**

Danny Segundo, City Administrator

**DATE:**

October 6, 2020

**SUBJECT:**

Amend Floodplain Ordinance 10-009

**BACKGROUND/INFORMATION:**

Within the Texas Water Development Board (TWDB) is a Flood Outreach Section, a Community Assistance Program. In early August a representative (Jessica Fleming) with the TWDB reached out to our city and inquired about our floodplain management program and our participation in the National Flood Insurance Program (NFIP).

A review of our ordinance revealed the need for necessary updates and grammar corrections. Exhibit A has the following highlighted areas that will require updates;

- Article 1, Section C (7) – change insure to Ensure
- Article 2, Lowest Floor Definition – “or to of”
- Article 3, Section B – add incorporated areas
- Article 3, Section G – “or to of”
- Article 4, Section A – City Administrator designation as floodplain administrator
- Article 4, Section C (2) – correct spelling,
- Article 5, Section G – replace court order with ordinance
- Article 5, Section G – Include amount for the violation
- Article 5, Section H – type name of official and title, and certifying official

These updates will be submitted to the TWDB upon approval by City Council. The amended ordinance new number will be Ordinance 20-005.

**RECOMMENDED COUNCIL ACTION:** Discuss, Consider approve or (disapprove) Amending Ordinance 10-009.

**ATTACHEMENTS:**

- 1) Exhibit A – Ordinance Highlighted
- 2) Exhibit B – Ordinance 20-005

**ORDINANCE NO. 20-005**

**AN ORDINANCE OF THE CITY OF SOMERVILLE TEXAS AMENDING ORDINANCE NO. 10-009; THIS ORDINANCE ADOPTS THE REGULATIONS OF THE STATE OF TEXAS FLOOD CONTROL INSURANCE ACT, TEXAS WATER CODE, SECTION 16.315 AND THE NATIONAL FLOOD INSURANCE PROGRAM'S (NFIP)'S REGULATIONS (44 CFR PARTS 59-78) REVISED OCTOBER 1, 2001, AS WELL AS FINAL NFIP RULES THAT BECAME EFFECTIVE BETWEEN OCTOBER 1, 2001 AND OCTOBER 21, 2002; ESTABLISHES REGULATIONS TO MINIMIZING LOSSES FROM FLOODING; ADOPTING FLOOD INSURANCE RATE MAPS AND FLOOD BOUNDARY- FLOODWAY MAPS; PROVIDES A REPEALER CLAUSE; PROVIDES A PENALTY CLAUSE; DECLARES AN EMERGENCY; FINDS AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BYLAW.**

**WHEREAS**, the City Council of the City of Somerville Texas (the "City") Adopted Flood Hazard Area Regulations, and, after consulting with state and county officials coordinating the update and revision of regional flood regulations, the City desires to update these regulations to better harmonize with regional efforts to reduce flooding; and

**WHEREAS**, the City Council of the City of Somerville, in response to regulatory requires for participation in the Federal Flood Insurance Program, desires to update its regulations to minimize flooding within the city; and

**WHEREAS**, the adoption and updating of the flood control regulations and rules through the following amended regulations will provide regulatory flood management tools to assist in reducing periodic flooding which results in loss of life and property.

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

**Section 2. Flood Damage Prevention Ordinance Adopted.** The City Council hereby adopts this "Flood Damage Prevention Ordinance" for the control and regulation of flood hazard areas within the City of Somerville to read as set forth in the attachment hereto entitled "Flood Damage Prevention Ordinance", attached to and incorporated in this ordinance as though fully transcribed herein for all purposes Applicable Sections of 44 CFR (Parts 59-78 revised as of October 1, 2001), as well as final NFIP rules that became effective between October 1, 2001 and October 21, 2002, as amended, (Emergency Management and Assistance - National Flood Insurance Program Regulations) are incorporated herein and applicable to enforcement and interpretation of the Flood Hazard Area Regulations as adopted.

**Section 3. Amendment of Ordinances.** Ordinance No. 08-004 is hereby amended in its entirety and all prior ordinances of the City dealing with or applicable to flood hazard areas are hereby amended to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or Ordinance of the City, the terms and provisions of the most restrictive shall govern.

**Section 4. Governmental Immunity.** Nothing in this ordinance shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the City or its officers and employees nor to create any legal rights or claims on behalf of any third party. This ordinance is solely for the benefit of the City and public services and utility services and does not create or grant rights, contractual or otherwise, to any other person or entity. Neither the City, nor its officers and employees waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

**Section 5. Effective Date.** This Ordinance shall take effective immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

**Section 6. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such invalid phrase, clause sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a



court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 7. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given, as required by the Open Meetings Act, *Chapter 551, Texas Government Code*.

**DULY PASSED, APPROVED AND ADOPTED AT A REGULAR MEETING BY THE CITY COUNCIL OF THE CITY OF SOMERVILLE, TEXAS ON THE 13th DAY OF OCTOBER, 2020.**

\_\_\_\_\_ Ayes      \_\_\_\_\_ Noes      \_\_\_\_\_ Abstentions

**APPROVED:**

\_\_\_\_\_  
Micheal Bradford, Mayor

**ATTEST:**

\_\_\_\_\_  
Rose Rosser, City Secretary

60.3(d)

## **FLOOD DAMAGE PREVENTION ORDINANCE**

### **ARTICLE I**

#### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND**

##### **METHODS SECTION A. STATUTORY AUTHORIZATION**

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

##### **SECTION B. FINDINGS OF FACT**

(1) The flood hazard areas of the City of Somerville 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.

##### **SECTION C. STATEMENT OF PURPOSE**

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the

general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) 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

(7) Ensure that potential buyers are notified that property is in a flood area.

#### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance uses 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.

## ARTICLE 2

### DEFINITIONS

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

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

**APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**APPURTENANT STRUCTURE** - means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

**AREA OF FUTURE CONDITIONS FLOOD HAZARD** - means the land area that would be inundated by the 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 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AI-30, AE, A99, AR, AR/ AI-30, AR/ AE, AR/ AO, AR/ AH, AR/A, 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.



**BASE FLOOD ELEVATION (BFE)**-The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, AI-A30, AR, VI-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

**BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL** - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT** - means any man-made change 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.

**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.
- (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, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** - see *Flood Elevation Study*

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

**FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and 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 thereof, which provide standards for the purpose of flood

damage prevention and reduction.

**FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY**- see Regulatory *Floodway*

**FUNCTIONALLY DEPENDENT USE** - means a use, which cannot perform its intended purpose unless it is located or carried out in 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

(1) Individually listed on a local inventory or 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 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 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 Section 60.3 of the National Flood Insurance Program regulations.

**MANUFACTURED HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.



**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVO) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of 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.

**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. 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.)

**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) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - means the height, in relation to the North American Vertical Datum (NAVO) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **ARTICLE 3**

#### **GENERAL PROVISIONS**

##### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of the City of Somerville.

##### **SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZZARD**

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 Burleson County and incorporated areas," dated January 6, 2011, with accompanying Flood Insurance Rate Maps and/ or Flood Boundary- Floodway Maps (FIRM and/ or FBFM) dated January 6, 2011 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

## **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

## **SECTION D. COMPLIANCE**

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

## **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

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

## **SECTION F. INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be;

(1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

## **SECTION G. WARNING AND DISCLAIMER OF LIABILITY**

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



## **ARTICLE 4**

### **ADMINISTRATION**

#### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The City Administrator of Somerville is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

#### **SECTION B. DUTIES & 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 this ordinance.

(2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, 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.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), 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 Article 3, Section B, 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 5.

(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 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.

(10) 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 1 foot, provided that the community **first** completes all of the provisions required by Section 65. 12.

## **SECTION C. PERMIT PROCEDURES**

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the

lowest floor (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 or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section 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 Article 4, Section (B)(1);

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance 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;

(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 floodwaters and the effects of wave action, 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.

#### **SECTION D. VARIANCE PROCEDURES**

(1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

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

(4) 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.

(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 ordinance.

(6) 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 Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and



objectives of this ordinance (Article 1, Section C).

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

(9) 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.

Prerequisites for granting variances:

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

(k) 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.

(l) Any application to which 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.

(11) 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 Article 4, Section 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.

## **ARTICLE 5**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **SECTION 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.

#### **SECTION B. SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), 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. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(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 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.

- (1) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of 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 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.

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



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

### **(3) Manufactured Homes -**

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist 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) Require that 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 or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be 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:

(i) the lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) 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.



## **FLOODING (AO/AH ZONES)**

Located within the areas of special flood hazard established in Article 3, Section B, 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 where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least 2 feet if no depth number is specified).

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

(a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

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

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.

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

## **SECTION E. FLOODWAYS**

Floodways - located within areas of special flood hazard established in Article 3, Section B, 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 within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulation~, 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.

## **SECTION F. SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

## **SECTION G. PENALTIES FOR NON-COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this

(4) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM 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 Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) 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.

## **SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.

(3) 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 Article 3, Section B or Article 4, Section B (8) of this ordinance.

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

(5) 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.

## **SECTION D. STANDARDS FOR AREAS OF SHALLOW**

ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined \$500.00 for each violation, and in addition

shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent City of Somerville from taking such other lawful action as is necessary to prevent or remedy any violation.

#### **SECTION H. CERTIFICATION OF ADOPTION**

**APPROVED:** \_\_\_\_\_  
**Mayor, Micheal Bradford**

**PASSED:** \_\_\_\_\_  
**Date**

I, the undersigned \_\_\_\_\_ (Rose Rosser, City Secretary), do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the City of Somerville, at a regular meeting duly convened on October 13, 2020.



**ORDINANCE NO. 10-009**

**AN ORDINANCE OF THE CITY OF SOMERVILLE TEXAS AMENDING ORDINANCE NO. 08-004; THIS ORDINANCE ADOPTS THE REGULATIONS OF THE STATE OF TEXAS FLOOD CONTROL INSURANCE ACT, TEXAS WATER CODE, SECTION 16.315 AND THE NATIONAL FLOOD INSURANCE PROGRAM'S (NFIP)'S REGULATIONS (44 CFR PARTS 59-78) REVISED OCTOBER 1, 2001, AS WELL AS FINAL NFIP RULES THAT BECAME EFFECTIVE BETWEEN OCTOBER 1, 2001 AND OCTOBER 21, 2002; ESTABLISHES REGULATIONS TO MINIMIZING LOSSES FROM FLOODING; ADOPTING FLOOD INSURANCE RATE MAPS AND FLOOD BOUNDARY-FLOODWAY MAPS; PROVIDES A REPEALER CLAUSE; PROVIDES A PENALTY CLAUSE; DECLARES AN EMERGENCY; FINDS AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City Council of the City of Somerville Texas (the "City") Adopted Flood Hazard Area Regulations, and, after consulting with state and county officials coordinating the update and revision of regional flood regulations, the City desires to update these regulations to better harmonize with regional efforts to reduce flooding; and

**WHEREAS**, the City Council of the City of Somerville, in response to regulatory requires for participation in the Federal Flood Insurance Program, desires to update its regulations to minimize flooding within the city; and

**WHEREAS**, the adoption and updating of the flood control regulations and rules through the following amended regulations will provide regulatory flood management tools to assist in reducing periodic flooding which results in loss of life and property.

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

**Section 1. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

**Section 2. Flood Damage Prevention Ordinance Adopted.** The City Council hereby adopts this "Flood Damage Prevention Ordinance" for the control and regulation of flood

hazard areas within the City of Somerville to read as set forth in the attachment hereto entitled "Flood Damage Prevention Ordinance", attached to and incorporated in this ordinance as though fully transcribed herein for all purposes Applicable Sections of 44 CFR (Parts 59-78 revised as of October 1, 2001), as well as final NFIP rules that became effective between October 1, 2001 and October 21, 2002, as amended, (Emergency Management and Assistance - National Flood Insurance Program Regulations) are incorporated herein and applicable to enforcement and interpretation of the Flood Hazard Area Regulations as adopted.

**Section 3. Amendment of Ordinances.** Ordinance No. 08-004 is hereby amended in its entirety and all prior ordinances of the City dealing with or applicable to flood hazard areas are hereby amended to the extent of any conflict herewith, and all ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other code or Ordinance of the City, the terms and provisions of the most restrictive shall govern.

**Section 4. Governmental Immunity.** Nothing in this ordinance shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the City or its officers and employees nor to create any legal rights or claims on behalf of any third party. This ordinance is solely for the benefit of the City and public services and utility services and does not create or grant rights, contractual or otherwise, to any other person or entity. Neither the City, nor its officers and employees waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

**Section 5. Effective Date.** This Ordinance shall take effective immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

**Section 6. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such invalid phrase, clause sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

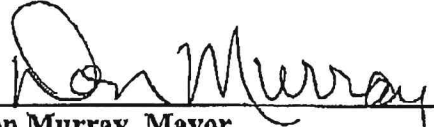
**Section 7. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that

public notice of the time, place and purpose of said meeting was given, as required by the Open Meetings Act, *Chapter 551, Texas Government Code*.

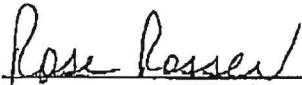
**DULY PASSED, APPROVED AND ADOPTED AT A REGULAR MEETING BY  
THE CITY COUNCIL OF THE CITY OF SOMERVILLE, TEXAS ON THE 14th  
day of DECEMBER, 2010.**

3 Ayes 0 Noes 0 Abstentions

**APPROVED:**

  
\_\_\_\_\_  
Don Murray, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Rose Rosser, City Secretary



60.3(d)

## **FLOOD DAMAGE PREVENTION ORDINANCE**

### **ARTICLE I**

#### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

##### **SECTION A. STATUTORY AUTHORIZATION**

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

##### **SECTION B. FINDINGS OF FACT**

(1) The flood hazard areas of the City of Somerville 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.

##### **SECTION C. STATEMENT OF PURPOSE**

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;



- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) 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
- (7) **Insure** that potential buyers are notified that property is in a flood area.

#### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

In order to accomplish its purposes, this ordinance uses 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.

## ARTICLE 2

### DEFINITIONS

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

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

**APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**APPURTENANT STRUCTURE** - means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

**AREA OF FUTURE CONDITIONS FLOOD HAZARD** - means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

**AREA OF SHALLOW FLOODING** - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 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 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

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

**BASE FLOOD ELEVATION (BFE)** – The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

**BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL** – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

**DEVELOPMENT** - means any man-made change 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.

**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.
- (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, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY (FIS)** - see *Flood Elevation Study*

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

**FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and 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 thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically



includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** - see *Regulatory Floodway*

**FUNCTIONALLY DEPENDENT USE** - means a use, which cannot perform its intended purpose unless it is located or carried out in 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 temporary flooding.

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

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

**MANUFACTURED HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a



floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of 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.

**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. 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.)

**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) is presumed to be in violation until such time as that documentation is provided.

**WATER SURFACE ELEVATION** - means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **ARTICLE 3**

#### **GENERAL PROVISIONS**

##### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

The ordinance shall apply to all areas of special flood hazard with the jurisdiction of the City of Somerville.

##### **SECTION B. 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 Burleson County," dated January 6, 2011, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated January 6, 2011 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

##### **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

##### **SECTION D. COMPLIANCE**

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

##### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

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

##### **SECTION F. INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

#### **SECTION G. WARNING AND DISCLAIMER OR LIABILITY**

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

### **ARTICLE 4**

#### **ADMINISTRATION**

##### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The {list position or title of the appointed Floodplain Administrator – i.e., Code Enforcement Officer} is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

##### **SECTION B. DUTIES & 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 this ordinance.



(2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, 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.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), 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 Article 3, Section B, 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 5.

(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) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

### **SECTION C. PERMIT PROCEDURES**

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- (a) Elevation (in relation to mean sea level), of the lowest floor (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 or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section 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 Article 4, Section (B)(1);

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance 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;

(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 floodwaters and the effects of wave action, 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.

#### **SECTION D. VARIANCE PROCEDURES**

(1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this ordinance.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

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

(4) 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.

(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 ordinance.

(6) 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 Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, Section C).

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

(9) 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.

[10] 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 application to which 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.

(11) 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 Article 4, Section 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.

## **ARTICLE 5**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **SECTION 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.

## **SECTION B. SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), 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. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(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 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.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of 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 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.

(b) The bottom of all openings shall be no higher than 1 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 on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist 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) Require that manufactured homes that are placed or substantially improved within Zones A1-30, 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 or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) the lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) 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.

**(5) Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM 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 Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) 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.

#### **SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C, and D of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.

(3) 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 Article 3, Section B or Article 4, Section B (8) of this ordinance.

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

(5) 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.

**SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)**

Located within the areas of special flood hazard established in Article 3, Section B, 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 where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

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

(a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

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

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.

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

**SECTION E. FLOODWAYS**

Floodways - located within areas of special flood hazard established in Article 3, Section B, 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 within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(3) Under the provisions of 44 CFR Chapter 1, 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.

#### **SECTION F. SEVERABILITY**

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

#### **SECTION G. PENALTIES FOR NON COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this **court order** and other applicable regulations. Violation of the provisions of this **court order** by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this **court order** or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ **{Texas law limits the fine to \$500}** for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent The City of Somerville from taking such other lawful action as is necessary to prevent or remedy any violation.

**SECTION H. CERTIFICATION OF ADOPTION**

**APPROVED:**

Ron Murray  
(community official)

**PASSED:**

12-14-10  
(adoption date)

**ORDINANCE BECOMES EFFECTIVE:**

12-14-10  
(effective date)

I, the undersigned, Rose Rosser  
{name of certifying official}, do hereby certify that the above  
is a true and correct copy of an ordinance duly adopted by the City of  
Somerville, at a regular meeting duly convened on {date}.

Rose Rosser

{Signature of Certifying Official}