

**ORDINANCE NO. 2002-01-22-001**

**AN ORDINANCE OF THE CITY OF KEMPNER, TEXAS, AMENDING ORDINANCE NO. 2000-04-04-001, FLOOD DAMAGE PREVENTION, BY AMENDING ARTICLE 4 SECTION C (1) AND ADDING NEW ARTICLE 5 SECTIONS D, E& F; SO AS TO PROVIDE A PERMIT FEE; STANDARDS FOR AREAS OF SHALLOW FLOODING; FLOODWAY REGULATIONS; AND A PENALTY PROVISION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**Whereas**, the City of Kempner adopted a comprehensive flood damage prevention ordinance on April 4, 2000 the same being Ordinance No. 2000-04-04-001; and

**Whereas**, in order to provide for effective enforcement, it is desirable to amend said ordinance to meet all FEMA requirements and to provide a penalty provision consistent with the authorization granted by S.B. No. 936.

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

**Section 1. Findings.** The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

**Section 2. Amendment.** That Ordinance No. 2000-04-04-001 Entitled "Flood Damage Prevention Ordinance" is hereby amended at Article 4 Section C (1) so as to provide a permit fee; and providing for new Article 5 Sections D, E, & F such sections to read as follows:

**Article 4 Section C (1). PERMIT PROCEDURES**

Application for a 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 along with payment of the permit application fee of \$125.00:

**Article 5 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 base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of

flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

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

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

have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), 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 of effects of buoyancy.

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 (1)a., are satisfied.

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

#### **Article 5 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:

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.

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.

Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance 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** applies for a conditional FIRM and floodway revision through FEMA.


**Article 5 Section F. PROVIDING A PENALTY**

No structure or land shall be hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,000.00, each day in violation shall be deemed a separate offense. Nothing herein contained shall prevent the city of Jonestown from taking such other lawful action as is necessary to prevent or remedy any violation including the bringing of a suit seeking injunctive relief and attorneys fees.

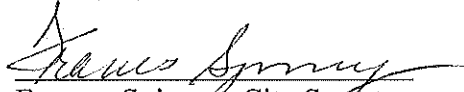
**Section 3. OPEN TO THE PUBLIC**

It is hereby found and determined that this meeting at which this ordinance is passed is open to the public as required by law and that notice of the time, date, and location of such meeting was given as required by law.

**PASSED AND APPROVED** this the 22<sup>nd</sup> day of January, 2002

  
Roger Fancher, Mayor

ATTEST:

  
Frances Spinney, City Secretary