

WEBB COUNTY FLOOD DAMAGE PREVENTION ORDER

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WEBB COUNTY
FLOOD DAMAGE PREVENTION ORDER

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, Sections 16.3145 and 16.315, mandates the adoption of local orders and delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Additionally, pursuant to Section 232.030(c)(6) of the Texas Local Government Code, the Legislature of the State of Texas has mandated certain counties, such as Webb County, to adopt through their subdivision regulations for flood management that are not less stringent than the minimum standards set forth by the National Flood Insurance Act. Therefore, the Commissioners Court of Webb County Texas does ordain as follows:

SECTION B. FINDINGS OF FACT

- (1) The flood hazard areas of Webb County 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, flood-proofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this Order to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by 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 Order 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; **and**
- (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 Order shall be interpreted to give them the meaning they have in common usage and to give this Order 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.

AGRICULTURAL STRUCTURE - means a structure which is used solely for the housing of animals or the storage of equipment or materials associated with agricultural uses.

APPURTENANT STRUCTURE - means a structure which is on the same parcel of property as the principal structure to be insured or permitted and the use of which is incidental to the use of the principal structure. An appurtenant structure may only be used for the purposes set out for enclosures under Article 5 Section B (3).

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. In addition to areas of the special flood hazard depicted on the FIRM, as set out by Article 3 Section B areas of the special flood hazard shall include:

- (1) those areas located within 100 feet of a Zone A designation shown on the FIRM unless an acceptable detailed H&H study confirms that the development is located outside the limits of the 1% or greater chance flood;
- (2) those areas located within 100 feet of a stream center line shown on USGS or "US Topo" maps regardless of whether said stream is depicted on the FIRM unless an acceptable detailed H&H study confirms that the development is located outside the limits of the 1% or greater chance flood;
- (3) those areas which have been identified as being subject to inundation of the 1 percent or greater chance flood through a detailed hydrologic and hydraulic study (H&H study) as may be required by this Order;
- (4) any floodway or geographic area selected and adopted by the local community through this Order or amendment thereto under Article 5 Section E; and
- (5) any area determined by and through the discretionary authority by the Floodplain Administrator as being subject to inundation of the 1 percent or greater chance flood as set out in this Order which may include the best available data from any federal, state or other source.

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 sub-grade (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 FACILITIES - means those facilities which provide critical services or services that are essential during flooding or other hazardous events that should be protected to an even higher standard than other development. Failure to provide greater flood protection to these types of critical facilities creates severe and

unacceptable public safety risk. Critical facilities have been classified into two types of categories as defined herein below:

- (1) Class 1 Critical Facilities - means those facilities that must remain accessible during the 0.2% flood event because they are the base of operations for emergency responders, are particularly difficult to evacuate during a flood event, or facilities that provide services essential to the life, health, and safety of the community. Class 1 Critical Facilities include police and fire stations, emergency medical centers, communication centers, hospitals, jails, detention centers, child or elderly daycare centers, nursing homes and other residential uses for persons with limited mobility and/or dependency on life-sustaining medical equipment.
- (2) Class 2 Critical Facilities - means structures that store public records; museums and libraries; schools; and other buildings that store rare and/or valuable items and information that sustain the history and public records of the community. These structures are not expected to remain accessible or functioning during a flood event, though in many instances their functions must resume as soon as possible after a flood event. Class 2 Critical Facilities also include public infrastructure such as water distribution and wastewater treatment facilities, which are expected to remain functioning during a flood event although they may be inaccessible or accessible only by water craft during a flood event. Class 2 Critical Facilities also include gas/oil/propane storage facilities, hazardous waste handling and storage facilities, and other public equipment storage facilities.

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.

DESIGN FLOOD ELEVATION (DFE) - means the elevation of the freeboard above the base flood elevation (BFE) that all development must be designed to and constructed for permitting and compliance as required in this Order.

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 insurance 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."

For the purposes of regulating a permit through this Order, "existing construction" means construction commenced on or after September 3, 1998 being the date that the Webb County Commissioners Court first adopted floodplain management regulations and became a participant in the National Flood Insurance Program. For permitting purposes of this Order, existing construction is identified as "Pre-Order".

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 DAMAGE PREVENTION ORDER - means the effective order of Webb County, Texas which provides for floodplain management as defined herein for the unincorporated areas of Webb County.

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 DETERMINATION - means a written document executed by the Floodplain Administrator or designee which determines the applicability of the Flood Damage Prevention Order to new or existing construction, substantial improvements, subdivision proposals, or other development.

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 orders (such as a floodplain order, grading order and erosion control order) 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

FREEBOARD - means a factor of safety, usually expressed in feet above a flood level, for the purposes of floodplain management. Freeboard tends to compensate for many unknown factors that could contribute to flood heights greater than the heights calculated for a selected size flood and floodway conditions, such as the hydrologic effect of urbanization of the watershed. For all floodplain management and permitting purposes in the jurisdiction Webb County, the freeboard established by this Order is set out as follows:

- (1) Class 1 Critical Facilities - shall have a freeboard of twelve (12) inches or 1 foot above the flood elevation of the 0.2% chance flood also known as the 500-year flood.
- (2) Class 2 Critical Facilities and Critical Features - shall have elevated or flood-proofed to the freeboard of twelve (12) inches or 1 foot above the flood elevation of the 0.2% chance flood also known as the 500-year flood.
- (3) Flood-Protection and Drainage Structures - shall have a freeboard of twenty-four (24) inches or 2 feet above the base flood elevation of the 1 percent chance flood also known as the 100-year flood.
- (4) All Residential, Non-Residential or Other Development not classified as a critical facility or flood-protection system shall have a freeboard of eighteen (18) inches or 1.5 feet above the base flood elevation of the 1 percent chance flood.

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 Interior; or
- (4) 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 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. **No exclusion or exception to the lowest floor shall apply to Critical Facilities.**

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 **or other development** 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.

For the purposes of this Order, “new construction” means construction or development commenced on or after September 3, 1998 the effective date of the initial adoption of the Webb County Flood Damage Prevention Order or the effective date of an amendment thereto which added territory not previously regulated by the Order, whichever is later.

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.

For the purposes of this Order, “new manufactured home park or subdivision” means the construction of facilities completed on or after September 3, 1998 the effective date of the initial adoption of the Webb County Flood Damage Prevention Order or the effective date of an amendment thereto which added territory not previously regulated by said Order, whichever is later.

PRE-FIRM - means construction or development in an area of the special flood hazard which was completed prior to the effective date of the FIRM or revision thereto, whichever is later. A “Pre-FIRM” designation is established for floodplain management purposes only.

PRE-ORDER - means construction or development completed prior to September 3, 1998 the effective date of the initial adoption of the Webb County Flood Damage Prevention Order or the effective date of an amendment thereto, whichever is later. A “Pre-Order” designation is established for floodplain management purposes only.

REASONABLY SAFE FROM FLOODING - means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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. The regulatory floodway can be identified on the FIRM or selected and adopted by the local community.

RIVERINE – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SPECIAL FLOOD HAZARD AREA (SFHA) – 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."

SUBSTANTIAL PROJECT - means any construction or development in which the ultimate build-out of such development impacts or will impact 5 or more acres of real property.

VARIANCE - means a grant of relief by a community from the terms of a floodplain management regulation. Full requirements are established by Section 60.6 of the National Flood Insurance Program regulations; however, the Webb County Flood Damage Prevention Order further limits variances to only those development activities set out in Article 4 Section D of this Order.

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 National 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 ORDER APPLIES

The Order shall apply to all areas of special flood hazard within the jurisdiction of Webb County and outside the corporate limits of a municipality.

SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

- (1) The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Webb County, Texas and Incorporated Areas, dated April 2, 2008, with accompanying Flood Insurance Rate Maps (FIRM), and any revisions or map changes thereto, are hereby adopted by reference and declared to be a part of this Order.
- (2) A vast majority of Webb County has been mapped by FEMA using only approximate methodologies which are depicted on the FIRM as Zone A (a.k.a., Approximate A Zones). Having been established through approximate methodologies, the Webb County Commissioners Court finds that Zone A designations depicted on the FIRM for Webb County, Texas are generally conservative in estimating actual flood hazards and are inadequate for permitting, the determination of flood hazard boundaries, or establishing base flood elevations. Therefore, in addition to the FIS and accompanying FIRM establishing the areas of the special flood hazard for Webb County, Texas, the Webb County Commissioners Court hereby selects and adopts additional territory located beyond or outside the mapped areas of the special flood hazard shown on the FIRM which shall also be regulated by this Order as set out below:
 - (a) those areas located within 100 feet of a Zone A designation shown on the FIRM unless an acceptable detailed H&H study confirms that the development is located outside the limits of the 1% or greater chance flood;
 - (b) those areas located within 100 feet of a stream center line shown on USGS or "US Topo" maps regardless of whether said stream is depicted on the FIRM unless an acceptable detailed H&H study confirms that the development is located outside the limits of the 1% or greater chance flood;

- (c) those areas which have been identified as being subject to inundation of the 1 percent or greater chance flood through a detailed hydrologic and hydraulic study (H&H study) as may be required by this Order;
 - (d) any floodway or geographic area selected and adopted by the local community through this Order or amendment thereto under Article 5 Section E; and
 - (e) any area determined by and through the discretionary authority of the Floodplain Administrator as being subject to inundation of the 1 percent or greater chance flood as set out in this Order which may include best available data from any federal, state or other source.
- (3) The Webb County Commissioners Court also finds Zone A designations on the FIRM to be inadequate for subdivision proposals or other development regulated by Article 5, Section C. As a condition precedent to receiving plat approval or permitting, any subdivision proposal or other development subject to regulation under Article 5 Section C in which any part of the development is located in Zone A of the FIRM shall be required to perform a detailed hydrologic and hydraulic engineering study (H&H study) to determine the boundaries of the flood hazard area, establish base flood elevations, select a regulatory floodway and secure FEMA approval of a Letter of Map Revision (LOMR) in accordance with Article 5 Section C.
- (4) Regardless of any finding of a detailed H&H study, in no event shall any area located within the effective FIRM's mapped special flood hazard area be removed from regulation of this Order until the FIS or FIRM is revised or amended by FEMA through a Letter of Map Change or physical map change as prescribed by the National Flood Insurance Program.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

- (1) A Floodplain Determination by the Floodplain Administrator shall be required for all construction, substantial improvement, repairs, rehabilitation, subdivision proposals and other development within the unincorporated areas of Webb County to ensure conformance with the flood hazard reduction provisions of this Order.
- (2) No development activities may commence until a floodplain determination is issued by the Floodplain Administrator indicating the applicability of this Order as set out by Article 3 Section B.

- (3) If the proposed development will not occur within or otherwise impact a regulated flood hazard area as established by this Order, an exemption certificate executed by the Floodplain Administrator shall be issued to the development. An exemption certificate may include conditions or limitations by the Floodplain Administrator to ensure ongoing compliance of the development as it progresses.
- (4) Upon the issuance of a floodplain determination that the proposed development will occur within or otherwise impact a regulated flood hazard area as established by this Order as set out by Article 3 Section B, a Floodplain Development Permit shall be required for all development to ensure conformance with the provisions of this Order.

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 Order and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This Order is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Order and another order, 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 Order, 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 Order 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 Order 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 Order 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 Order or any administrative decision lawfully made hereunder.

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ARTICLE 4
ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Webb County Planning Director is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Order 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 Order.
- (2) Reviews 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 Order.
- (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), 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. If the base flood elevation data (BFE) or floodway data cannot be reasonably obtained from these sources, a site-specific engineering analysis must be performed by a Texas-licensed professional engineer to determine a BFE and may also require the preparation, submission and approval of a Letter of Map Change.
- (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 A, 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.
- (11) The Floodplain Administrator may establish a series of permits to govern subdivision proposals, substantial projects or other development to ensure compliance with all provisions of this Order or to coordinate the regulation of the proposed development with other requirements.
- (12) The Floodplain Administrator may also seek and secure the assistance of other officials or agencies in making his/her decisions, determinations and in performing his/her duties but is not required to conform to the recommendations of others.

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, existing and proposed improvements for drainage, utilities, parking, ingress/egress, appurtenances or other development 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 flood-proofed;
- (c) A certificate from a registered professional engineer that the nonresidential flood-proofed structure shall meet the flood-proofing 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);
- (f) Elevation in relation to mean sea level to which any flood protection structure, dam, berm or similar drainage feature shall be elevated;
- (g) A certificate from a registered professional engineer that the flood protection features shall meet the design flood elevation (DFE) criteria of Article 5 Section (B)(7);
- (h) Elevation in relation to mean sea level to which any land alterations, grading, utilities, parking, ingress/egress, appurtenances or other development are be designed;
- (i) A copy of the means of conveyance or other documents that indicates the ownership of the property to be developed;
- (j) Written consent of all owners who possess an interest in the property to be developed and subject to permitting.
- (k) All permit application fees as set out in Article 4, Section F.

- (2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Order 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;
 - (j) The diversion of flood waters or surface drainage to the injury of others.
- (3) A series of permits may be established by the Floodplain Administrator to govern subdivision proposals, substantial projects or other development to ensure compliance with all provisions of this Order or to coordinate the regulation of the proposed development with other requirements.
- (4) TERM OF PERMITS - Construction must be started within 180 days of the date the permit is issued or the permit shall be null and void. Upon written request made prior to the permit becoming null and void, two six-month extensions may be obtained. However, if construction has not started at the time of the issuance of a revised or amended FIRM, LOMA, or LOMR, a new

permit must be obtained regardless of the time span from the issuance of the latest permit to ensure compliance with FEMA's map changes.

SECTION D. VARIANCES

- (1) The following development activities may be considered for a variance to this Order:
 - (a) reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places 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;
 - (b) improvements to 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;
 - (c) improvement to repair a substantially damaged residential structure located on a platted lot containing one acre or less in size contiguous to and surrounded by parcels with existing structures constructed below the base flood level, provided that the relevant factors in Section C(2) of this Article have been fully considered. A variance under this subsection shall not include any new construction or an improvement which increases the residential structure's total square footage. To be considered under this subsection, the platted lot must have been approved by the Webb County Commissioners Court, recorded in the official Webb County Plat Records and compliant with the Webb County Model Subdivision Rules and Chapter 232, Subchapter B of the Texas Local Government Code;
 - (d) new construction, substantial improvements and other development necessary for the conduct of a functionally dependent use provided that the criteria established by 44 CFR §60.6 (a)(7) and this Order are met and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; and
 - (e) public infrastructure or transportation improvements by governmental entities undertaken to provide or deliver emergency services, to establish ingress/egress to facilitate evacuations routes, and similar activities

essential to the life, health, and safety of the community. This provision shall not apply to a permanent critical facility.

(f) a variance to the location restriction of a Class 1 Critical Facility may be considered provided that the lowest floor shall be elevated twelve (12) inches or 1 foot or greater above the flood elevation of the 0.2% chance flood event (aka, 500-yr flood) and is accessible at all times during the 0.2% chance flood event.

(2) If a person wishes to seek a variance to the provisions of these Regulations, a written request for a variance shall be filed with the Floodplain Administrator pursuant to this section.

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

(4) Variances shall not be issued for any existing or proposed development that has altered, modified, or realigned a watercourse or special flood hazard area, by any means including the use of fill, until that development has submitted and secured approval through a Letter of Map Change of any alteration, modification, realignment or fill in accordance with the minimum standards of the National Flood Insurance regulations, as may be amended.

(5) Variances shall not be issued for any development associated with a subdivision proposal or other development subject to regulation under Article 4 Section C of this Order.

(6) To be considered for a variance by the Floodplain Administrator, the variance must meet the following criteria:

(a) All activities associated with the development are compliant with the provisions of 44 CFR §60.6;

(b) The granting of a variance will not result in a modification to a watercourse, alter the capacity of a regulatory floodway, increase flood heights, create additional threats to public safety, cause extraordinary public expense, or create nuisances, cause fraud or victimization of the public;

(c) The granting of variance will not result in a violation of federal or state law; and

- (d) The Floodplain Administrator has determined that a variance is the minimum necessary considering the flood hazard to afford relief.
- (7) A determination by the Floodplain Administrator to approve, conditionally approve or deny a variance request must be submitted in writing to the applicant.
- (8) If a variance is approved by the Floodplain Administrator, the Floodplain Administrator shall:
 - (a) notify the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (b) Construction below the base flood level increases risks to life and property.
- (9) If a variance request is denied by the Floodplain Administrator, an applicant may appeal the decision of the Floodplain Administrator in accordance with the appeal process set out in Article 4 Section E.
- (10) The Floodplain Administrator shall maintain a record of all actions involving a variance and shall report variances to the Federal Emergency Management Agency upon request.

SECTION E. APPEALS

- (1) A person aggrieved by a decision of the Floodplain Administrator may file an appeal under this section 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 Order.
- (2) The Webb County Commissioners Court serves as the appeal body to hear and render judgement on appeals. To be considered by the Webb County Commissioners Court, an appeal must be timely submitted, follow the appeal procedures, and contain the information required by this section as set out below:
 - (a) Within 30-days of the date of a written denial or final determination issued by the Floodplain Administrator, a request for an appeal must be submitted to the Webb County Judge and complete copies to the

Executive Administrator of the Commissioners Court, the Director of the Civil Legal Division and the Floodplain Administrator.

(b) Requests for appeals shall be submitted in writing, include a brief explaining the error in any requirement, decision, or determination made by the Floodplain Administrator in the application of this Order, and describe how the applicant is entitled to relief.

(c) An appeal may only be based on the information and documents submitted to the Floodplain Administrator during the application process. Any new information or documents will not be heard or considered until it has been submitted to and reviewed by the Floodplain Administrator through a new application.

(3) Within 10 working days upon receipt of a request for an appeal pursuant to subsection (2), the County Judge or his designee must evaluate the application and notify the applicant in writing that the application for appeal is:

(a) Incomplete or deficient;

(b) Administratively complete;

(c) Denied for failure to submit an administratively complete application in compliance with the time constraints of the appeal procedures set out herein; or

(d) Rejected and returned to the applicant to submit a new application to the Floodplain Administrator for reconsideration.

(4) The notices submitted to the applicant pursuant to subsection (3) above shall include the following:

(a) Incomplete or deficient applications for appeal - must identify the deficiencies of the request, advise the applicant to submit deficient items in the same manner as prescribed by Article 4 Section E(2), and provide notice that an appeal request shall automatically be denied if the applicant fails to remedy and submit all deficiencies within 15-days from the date of notice or 30-days from the Floodplain Administrator's written determination, whichever date is later.

(b) Administratively complete applications for appeal - must provide notice of the hearing of the Webb County Commissioners Court to hear and render judgment on the appeal application within 30-days.

- (c) Denied applications for appeal - must provide evidentiary documentation of the applicant's failure to meet procedural time constraints set out in Article 4 Section E(2)(a).
- (d) Rejected and returned applications for appeal - must describe the new information not previously considered, instruct the applicant to submit a new application to the Floodplain Administrator for consideration, and advise the applicant that the time constraints prescribed by Article 4 Section E(2)(a) will not be applicable until a final determination is made by the Floodplain Administrator on the new application containing the new information.
- (5) Within 10 working days from the receipt of Administratively complete application for appeal as set out by this section, the Floodplain Administrator shall file a written response to the County Judge describing the relevant factors governing the action or decision subject of the appeal request.
- (6) Within 30-days of notice of an Administratively complete application for appeal, the County Judge must schedule a hearing of the Webb County Commissioners Court to hear and render judgment on the appeal.
- (7) The Webb County Commissioners Court will 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 Order.
- (8) To overturn a decision of the Floodplain Administrator through this process requires affirmative action by at least three (3) members of the Webb County Commissioners Court. The Commissioners Court may defer a hearing of an appeal if the attendance of the members present is inadequate to meet this criterion. The deferred hearing should be considered within 30-days or less from the day the Court defers a hearing.
- (9) If the Webb County Commissioners Court grants an appeal to overturn a decision of the Floodplain Administrator, the Webb County Commissioners Court shall issue and execute all permitting or other authorizations in accordance with the Court's decision.
- (10) If the Webb County Commissioners Court upholds a decision of the Floodplain Administrator that is subject of an appeal, the matter is considered final.

(11) After exhausting all administrative remedies through the Webb County Commissioners Court, any person aggrieved by a decision of the Webb County Commissioners Court may appeal such decision in the courts of competent jurisdiction.

(12) 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.

SECTION F. FEES

(1) Pursuant to §16.324 of the Texas Water Code, the Webb County Commissioners Court may set a reasonable fee for the issuance of a permit. The fee must be set and itemized in the county's budget as part of the budget preparation process. To comply with the provisions of §16.324 of the Texas Water Code, the fee schedule or permitting under this Order is set out by the Commissioners Court through a separate order adopted each fiscal year. The most recent fee schedule order shall be attached hereto under Appendix B.

(2) No permit application or map change shall be accepted or processed without the remittance of all applicable fees.

SECTION G. RESPONSIBILITY OF OTHER OFFICIALS

Under these regulations, the Floodplain Administrator is responsible for all administrative decisions, determinations and duties. Certain provisions of these regulations may place mandatory duties on other officials. When mandatory duties are placed on other officials, the Floodplain Administrator will withhold action until the prerequisite duty has been performed by the other official or agency.

ARTICLE 5
PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazard as established by Article 3 Section B the following provisions are required for all new construction, substantial improvements or other development:

- (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, substantial improvements or other development shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction, substantial improvements or other development shall be constructed with materials resistant to flood damage;
- (4) All new construction, substantial improvements or other development shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new or replacement electrical components or equipment shall be elevated at or above the design flood elevation (DFE) or designed to be watertight and substantially impermeable to the passage of water to eliminate the infiltration of flood waters into the components or equipment.
- (6) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) 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,
- (8) All new, replacement or repaired on-site waste disposal systems shall be located or designed to avoid impairment to them or contamination from them during flooding and must adhere to all effective regulations prescribed by the Webb County On-site Sewage Disposal Facilities Order.

SECTION B. SPECIFIC STANDARDS

Any development proposed in Zone A where base flood elevation has not been provided, must also comply with the provisions of Article 5, Sections E and G of this Order. 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); (iii) Article 5, Section C (3); or (iv) Article 5, Section G(4), the following provisions are required:

- (1) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated at least **eighteen inches (18")** above the base flood elevation. A registered professional engineer 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 at least **eighteen inches (18")** above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the freeboard (twelve inches above 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 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 flood-proofed 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. **As established by the provisions of Sections E and G of this Article, enclosures shall not be permitted within Zone A on a community's FIRM or an area of special flood hazard established by Article 3, Section B.** 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 one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than 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 - all manufactured homes must meet or exceed the following minimum criteria:**
- (a) Require that all manufactured homes to be placed within Zone A on a community's FIRM or an area of special flood hazard established by Article 3, Section B shall be installed using methods and practices which minimize flood damage and subject to the more specific regulations established in Section B(9)-(11), Section E and Section G of this Article. For the purposes of this requirement, manufactured homes must be elevated at least eighteen inches (18") above the base flood elevation as established by Section G(4) of this Article 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) Subject to the more specific regulations established in Section B(9)-(11) and Section E of this Article, require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least eighteen inches (18") above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (5) **Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A, A1-30, AH, and AE on the community's FIRM or an area of special flood hazard established by Article 3, Section B shall be either:**
- (a) on the site for fewer than 180 consecutive days, fully licensed and ready for highway use. 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; or

(b) 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.

(6) Flood-Protection and Drainage Structures - new construction or substantial improvement of any drainage structure or facility shall be designed and constructed to provide flood protection measures to meet or exceed the freeboard for the designed flood elevation (DFE) of twenty-four (24) inches or 2 feet or greater above the base flood elevation of the 1 percent chance flood. When elevation standards of such structures are required by other federal, state, or local regulations, the more stringent elevation requirement will apply to all permitting. Due to the purpose of flood-protection and drainage systems, no variance may be granted to the minimum elevation requirements established by this section.

(7) Agricultural and Appurtenant Structures - shall meet or exceed the criteria set out in this Order for enclosures.

(8) Fill Standards - the following standards apply to all fill activities in special flood hazard areas:

(a) Fill sites, upon which structures will be constructed or placed, must be compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test method or an acceptable equivalent method;

(b) All slopes for any fill shall not be steeper than one foot vertical to two feet horizontal;

(c) Adequate protection against erosion and scour is provided for all fill slopes. When expected velocities during the occurrence of the base flood are greater than five feet per second armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less protection shall be provided by covering them with vegetative cover;

(d) All fill shall be composed of clean granular or earthen material and meet the minimum criteria set out for fill material under FEMA's Technical Bulletin #10, "Ensuring that Structures Built on Fill In or Near Special Flood Hazard Areas are Reasonably Safe from Flooding";

- (e) To protect the integrity and capacity of the floodway, no fill may be placed within 10 feet of a regulatory floodway;
 - (f) Certification from a professional engineer licensed to practice in Texas attesting to compliance with these standards must be submitted in writing, signed and sealed by the attesting engineer.
- (9) Anchoring and Bracing – structures which require anchoring and bracing by this Order shall be designed and certified to demonstrate that the building is adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effect of buoyancy. Anchoring and bracing designs and certificates submitted as part of an application under this Order shall be signed and sealed by a professional engineer licensed to practice in the state of Texas.

All anchoring and bracing certificates shall meet or exceed the criteria established by the following:

- (a) FEMA P-85, Protecting Manufactured Homes from Floods and Other Hazards.
 - (b) FEMA IS-9, Managing Floodplain Development Through The National Flood Insurance Program.
- (10) Posts, Pilings or Pier and Beam Designs – the lowest floor of structures elevated through the use of post, piling or pier and beam designs shall be measured from the bottom of the lowest horizontal structural member. Designs shall be submitted with the permit application and shall be signed and sealed by a professional engineer licensed to practice in the state of Texas. All posts, pilings or pier and beam designs shall meet or exceed the criteria established by the following:
- (a) FEMA P-85, Protecting Manufactured Homes from Floods and Other Hazards.
 - (b) FEMA IS-9, Managing Floodplain Development Through The National Flood Insurance Program.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS AND SUBSTANTIAL PROJECTS

- (1) All subdivision proposals including the placement of manufactured home parks, subdivisions, and substantial projects shall be consistent with Article 1, Sections B, C, and D of this Order. See subsection (6) for the developments regulated by this section.
- (2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions and substantial projects shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this Order. See subsection (6) for the developments regulated by this section.
- (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 Order. See subsection (6) for the developments regulated by this section.
- (4) All subdivision proposals including the placement of manufactured home parks, subdivisions, and substantial projects shall have adequate drainage provided to reduce exposure to flood hazards. See subsection (6) for the developments regulated by this section.
- (5) All subdivision proposals including the placement of manufactured home parks, subdivisions, and substantial projects shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. See subsection (6) for the developments regulated by this section.
- (6) Subdivision proposals and substantial projects regulated by this section shall include the following:
 - (a) Non-residential development, of any type, in which the ultimate build-out or development impacts 5 or more acres of real property;
 - (b) Any subdivision of real property into two or more parts; or
 - (c) Any property containing 10 or less acres that is offered for sale or lease and which has not been restricted against all residential uses in all deeds and conveyances as further regulated by Subchapter B, Chapter 232, Texas Local Government.
- (7) Before any development commences, all subdivision proposals and substantial projects regulated by this section in which any part is impacted

by Zone A shall conduct an engineering analysis through a hydrologic and hydraulic study (H&H study) and acquire approval from FEMA of the Letter of Map Change (LOMC) of existing conditions in compliance with Article 5, Section H.

- (8) After FEMA's issuance of a LOMC of existing on-the-ground conditions, applicants may then submit any required Conditional Letter of Map Revision (CLOMR) application to FEMA in the event that the subdivision proposal or substantial project requires any modification or alteration to watercourses or changes to floodplains, floodways, or base flood elevations.
- (9) Subdivision proposals which are subject to further regulation by the Webb County Model Subdivision Rules or the provisions of Subchapter B, Chapter 232 of the Texas Local Government Code (TLGC) shall comply with the provisions of §232.024(b)(2), TLGC by including a restrictive covenant prohibiting the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of the NFIP and local regulations or orders adopted under Section 16.315, Water Code.
- (10) Final plat approval shall not be granted to any subdivision proposal subject to regulation under the Webb County Model Subdivision Rules or the Webb County Subdivision Regulations until the subdivision proposal has fully complied with this Order.
- (11) Variances shall not be granted to any subdivision proposal or substantial project regulated under this section.

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 at least twelve inches (12") above the base flood elevation or the highest adjacent grade at least twelve inches (12") above the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

- (2) All new construction and substantial improvements of non-residential structures;
 - (a) have the lowest floor (including basement) elevated at least twelve inches (12") above the base flood elevation or the highest adjacent grade at least twelve inches (12") above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (b) together with attendant utility and sanitary facilities be designed so that below the freeboard elevation of the base specified flood depth in an AO Zone, or below the freeboard 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 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

- (1) The floodway is a critical element in maintaining the flood carrying capacity of a watercourse without increasing the base flood elevation by more than a foot. Floodways are extremely hazardous due to the velocity of flood waters which carry debris, potential projectiles and erosion potential. Due to the severity and increased risk to the loss of human life and property, no variance may be granted to any floodway regulation established by this section.
- (2) Any development within a regulatory floodway located within areas of the special flood hazard as established in Article 3, Section B or adopted by Webb County under subsection (3) of this section must comply with the minimum standards for floodways pursuant to 44 CFR 60.3 et seq. and the following requirements:
 - (a) Subject to the requirements imposed by subsection (4), encroachments are prohibited, including fill, new construction, substantial improvements and other development within the 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.

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

(c) 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.

(3) Pursuant to 44 CFR §60.3(d)(2) and in an effort to promote public health, safety and general welfare; minimize public and private losses due to flood conditions; and provide increased flood protection measures, Webb County may also select and adopt floodways in addition to any regulatory floodway designated and depicted on the FIRM. Any development within a regulatory floodway adopted under this section must comply with all applicable flood hazard reduction provisions of Article 5. Regulatory floodways designated by this section may only be established by an official order of the Webb County Commissioners Court. Such floodways designation orders must be incorporated into this Order under "Appendix A, Selected Floodway Orders".

(4) If no regulatory floodway has been designated by the FIRM, after ____ (insert effective date of Order) ____, 2019, no fill may be authorized in the special flood hazard area until a Letter of Map Change is issued by FEMA which delineates a floodway. Until such floodway designation is approved by FEMA, encroachments into the special flood hazard area may only be authorized through post, pilings, pier and beam construction, or similar construction which does not require fill and in compliance with all other requirements established by this Order, including but not limited to Article 4, Section B(9) and Article 5.

SECTION F. STANDARDS FOR CRITICAL FACILITIES

As defined herein, CRITICAL FACILITIES are those facilities which provide critical services during flooding or other hazardous events that should be protected to an even higher standard than other development.

(1) Class 1 Critical Facilities must remain accessible during the 0.2% flood event (aka, 500-yr flood) because they are the base of operations for emergency responders, are particularly difficult to evacuate during a flood

event, or facilities that provide services essential to the life, health, and safety of the community. Class 1 Critical Facilities include police and fire stations, emergency medical centers, communication centers, hospitals, jails, child or elderly daycare centers, nursing homes and other residential uses for persons with limited mobility and/or dependency on life-sustaining medical equipment. Class 1 Critical Facilities shall meet the following standards:

(a) Shall not be located within a special flood hazard area (1% chance or 100-yr flood) or the 0.2% chance flood hazard area (aka, 500-yr flood). In the event no acceptable alternate site is available, a variance may be considered under Article 4, Section D(1)(f) to the location restriction of this section provided that the facility meets the elevation criteria established in subsection (b) below and is accessible at all times during the 0.2% chance flood event.

(b) The lowest floor shall be elevated twelve (12) inches or 1 foot or greater above the flood elevation of the 0.2% chance flood event (aka, 500-yr flood).

(2) Class 2 Critical Facilities are those structures that store public records; museums and libraries; schools; and other buildings that store rare and/or valuable items and information that sustain the history and public records of the community. These structures are not expected to remain accessible or functioning during a flood event, though in many instances their functions must resume as soon as possible after a flood. Class 2 Critical Facilities also include public infrastructure such as water distribution and wastewater treatment facilities, which are expected to remain functioning during a flood event although they may be inaccessible or accessible only by water craft during a flood event. Class 2 Critical Facilities also include gas/oil/propane storage facilities, hazardous waste handling and storage facilities, and other public equipment storage facilities. Class 2 Critical Facilities shall meet the following standards:

(a) Shall not be located within a floodway.

(b) The lowest floor shall be elevated twelve (12) inches or 1 foot or greater above the flood elevation of the 0.2% chance flood event (aka, 500-yr flood) or flood-proofed to that elevation.

SECTION G. STANDARDS FOR DEVELOPMENT IN ZONE A

(1) This section does not apply to any subdivision proposal or substantial project subject to regulation under Article 5 Section C which generally includes the following development:

(d) Non-residential development in which the ultimate build-out or development impacts 5 or more acres of real property;

(e) Any subdivision of real property into two or more parts; or

(f) Any property containing 10 or less acres that is offered for lease and which has not been restricted against all residential uses in all deeds and conveyances.

(2) Zone A or Approximate A Zone is a designation by FEMA where the area of special flood hazard is estimated using only approximate methodologies. No base flood elevations have been determined, floodways have not been designated, and the data is insufficient to identify exact boundaries, depths or limits of the special flood hazard or a resulting floodway. Due to these limitations, Webb County has adopted additional flood hazard reduction measures specific to development occurring in or near Approximate A Zones or its contributing watercourses. Any development occurring within the following areas shall be subject to this section:

(a) Any area depicted as Zone A on the FIRM;

(b) Any area located within 100 feet of Zone A of the FIRM unless the Floodplain Administrator has determined that the development is reasonably safe from flooding or a detailed H&H study is performed to identify the limits of the base flood and elevation;

(c) Any area that has been identified as being subject to inundation of the 1 percent or greater chance flood through a detailed engineering hydrologic and hydraulic study (H&H study);

(d) Any area within 100 feet of a stream center line shown on USGS or "US Topo" maps unless the Floodplain Administrator has determined that the development is reasonably safe from flooding or a detailed H&H study has been performed which indicates it is not in the special flood hazard area; and

(e) Any floodway or geographic area selected and adopted by the Webb County Commissioners Court or determined by the Floodplain Administrator as being subject to flood inundation through a detailed

study, historical records, flood events, or the best available data from any federal, state or other source.

- (3) No development may commence until a floodplain determination is issued by the Floodplain Administrator as set out under Article 3, Section C indicating the applicability of this Order. Said determination must be attached to any application for a floodplain development permit.
- (4) Utilizing data available from Federal, State or other sources, the Floodplain Administrator shall determine whether data is sufficient to establish a community-issued base flood elevation (BFE) to regulate development. In the event that the Floodplain Administrator finds that the available data is insufficient to establish a community-issued BFE, the applicant will be required to obtain the services of a Texas-registered professional engineer to perform a hydrologic and hydraulic study (H&H study) necessary to establish the limits of the special flood hazard area and the base flood elevation that will govern the proposed development.
- (5) In the event that a H&H study required by subsection (4) above that in the opinion of the Floodplain Administrator results in significant differences between the mapped FIRM and on-the-ground conditions, the Floodplain Administrator may require that a Letter of Map Change be submitted to and approved by FEMA prior to the issuance of permitting.
- (6) All new construction, substantial improvements or other development shall comply with all applicable flood hazard reduction provisions of Article 5.
- (7) All new construction, substantial improvements or other development shall comply with the floodway requirements of Article 5, Section E including but not limited to the prohibition of fill established by Article 5, Section E(4) until a regulatory floodway is established.
- (8) Agriculture structures and appurtenances are not required to conform to the elevation criteria established by Article 5, Sections E(4) and G(7).

SECTION H. MAP CHANGES

All requests for FEMA's Letters of Map Change such as letters of map amendment (LOMA), letters of map revision (LOMR) and conditional letters of map revision (CLOMR) initiated by any person must first be reviewed by the Floodplain Administrator.

The Floodplain Administrator may require the submission of any data or

documentation deemed relevant to determining if approval of a Letter of Map Change should be granted. The Floodplain Administrator may deny an application in which the applicant has refused to provide such additional data.

If the topographic data was prepared in a digital format, a copy of such digital data shall be included with the submittal.

If applicable, the International Boundary and Water Commission shall be consulted for its review and approval of any hydrologic and hydraulic studies or other development under its purview. The Floodplain Administrator may delay the submittal of the requests to the Federal Emergency Management Agency until after receipt of the aforementioned approvals.

The Floodplain Administrator's execution of an "Overview and Concurrence" as may be required by FEMA is generally based on the information submitted with the application. In the event that the Floodplain Administrator obtains information or evidentiary documents that substantially changes or materially impacts the basis of the Floodplain Administrator's certification contained in the Overview and Concurrence, the Floodplain Administrator may revoke said certification to ensure development complies with federal and state laws, local regulations and this Order.

Floodplain Development permits cannot be issued based on Conditional Letters of Map Revisions (CLOMRs) since CLOMRs are not an effective change to the FIRM. Except for those improvements necessary to implement any CLOMR improvement, permitting of structures and other development may not be generated until after FEMA has issued a Letter of Map Revision (LOMR). Since there is no change to the FIRM by the issuance of a CLOMR, FEMA has no process in which to withdraw a previously issued CLOMR. A revoked Overview and Concurrence certification associated with a CLOMR shall require a new application for map change before any permitting can be issued by the Floodplain Administrator.

During the pendency of a CLOMR and before the issuance of a LOMR, all development permitting shall be regulated under both the existing FIRM boundaries and the proposed boundaries of the areas of special flood hazard identified in the CLOMR.

Since CLOMR improvements substantially change watercourses, floodplains, and base flood elevations, approval of a CLOMR application shall not be generated by the Floodplain Administrator until receipt of a deed and title opinion for each property subject to permanent modifications or flood inundation.

All applications for any Letter of Map Change must be submitted with the required fees as prescribed in Article 4, Section F of this Order before it can be considered a complete application.

SECTION I. SEVERABILITY

If any section, clause, sentence, or phrase of this Order 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 Order.

SECTION J. 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 \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the County of Webb from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 6
RESPONSIBILITIES, SUSPENSION, AND REVOCATIONS

SECTION A. RESPONSIBILITIES OF ALL PERMIT APPLICANTS

- (1) All applicants and permit holders shall allow the Floodplain Administrator, designee, or county employee to inspect the work or development subject to a permit or regulation. The Floodplain Administrator, designee, or county employee may make as many scheduled or unscheduled inspections as deemed necessary to enforce this Order.
- (2) For the safety of inspection personnel, all animals must be restrained for the County's inspection of the construction and development. Failure to restrain animals may result in the suspension of inspection activities and subject the applicant to additional fees for rescheduling the inspection.
- (3) Providing in good faith accurate information and property ownership details in the application and design documents. Should the applicant discover an error of any of the information previously submitted, the applicant shall notify the Floodplain Administrator of the error within three (3) business days. Failure to provide accurate information may result in suspension or revocation of a permit under Sections B or C. Intentional falsification or deception to obtain a permit shall result in the automatic revocation of an application or permit.
- (4) The supporting documents of the permit application must reflect all development changes as they occur. Any change that would result in an impact to the floodway, floodplain, a watercourse, base flood elevations, or other substantial modifications must be approved prior to the development commencing. Any change which does not result in an impact to the floodway, floodplain, a watercourse, base flood elevations, or other substantial modifications must be reported to the Floodplain Administrator within three (3) business days.

SECTION B. SUSPENSION OF PERMITS

- (1) The Floodplain Administrator may suspend a Construction Authorization Permit issued under this Order if the development is found to be in violation of the construction requirements set forth under this Order.
- (2) If the Floodplain Administrator suspends a Construction Authorization Permit, the Floodplain Administrator shall notify the permittee in writing identifying all non-compliant issues.

- (3) Unless an extension is granted by the Floodplain Administrator, a suspended permit shall be automatically revoked if all violations are not resolved and approved by the Floodplain Administrator within 45 days from the notice of suspension.
- (4) If the development is not brought into compliance, all suspended Construction Authorization Permits are subject to Article 5, Section J of this Order.

SECTION C. REVOCATION OF PERMITS

- (1) The Floodplain Administrator may revoke a Floodplain Development Permit if the development deviates from the permit's development criteria or undertakes substantial improvement without prior authorization of the Floodplain Administrator through a Floodplain Development Permit.
- (2) All revoked permits are subject to Article 5, Section J of this Order.
- (3) Grounds for permit revocation include but are not limited to the following:
 - (a) Falsifying information in the permit application or design documents.
 - (b) Material deviation from the drawings and specifications on file with the Floodplain Administrator, or a pattern of consistent deviation from such drawings and specifications which would demonstrate an intention to avoid conformity with the requirements of the permit.
 - (c) Refusal to uncover work, allow access or otherwise interfere with a mandatory inspection of the Floodplain Administrator, designee or other authorized county employee.
 - (d) Proceeding with development while a permit is suspended, other than such work necessary to abate a suspension.
 - (e) An act or acts of violence, or threat or threats of violence against the Webb County Floodplain Administrator, designees or employees either on or off the job for the purpose of intimidating the Floodplain Administrator or personnel so that they will not perform their inspection or regulatory duties.

ARTICLE 7
CERTIFICATION OF ADOPTION

SECTION A. CERTIFICATION

The existing Flood Damage Prevention Order approved March 25, 2008 by the Webb County Commissioners Court is hereby revised by the adoption of these new regulations.

It is hereby found and declared by the Webb County Commissioners Court that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in the infliction of serious personal injury or death and is likely to result in substantial damage or destruction of public and personal property within its jurisdiction; in order to effectively meet or exceed the minimum requirements for continued participation in the National Flood Insurance Program (NFIP); minimize public and private losses due to flood conditions; and to implement adequate land use controls and floodplain management regulations to promote public health, safety, and welfare, it is necessary that this Order become effective immediately.

Therefore, it is hereby ordered that the revisions to the 2008 Flood Damage Prevention Order, being necessary for the immediate preservation of the public health, safety, and welfare, shall be in full force and effect after its passage and approval on this _____ day of _____, 2019.

All permitted structures or construction that occurred prior to the effective date of these revisions shall be subject to regulation under the previous Order unless the structure or property is substantially improved or other development occurs.

APPROVED:

Honorable Tano E. Tijerina
Webb County Judge

PASSED:

(Date)

I, the undersigned, Margie R. Ibarra, do hereby certify that the above is a true and correct copy of an Order duly adopted by the Webb County Commissioners Court at a regular meeting duly convened on _____, 2019.

Honorable Margie R. Ibarra
Webb County Clerk

{SEAL}

DRAFT

Appendix A

Selected Floodway Orders

Item	Description (creek or tributary names)	Effective Date

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DRAFT

Appendix B

Fee Schedule Order