

FILED FOR RECORD
KRYSTAL VALDEZ
ELLIS COUNTY CLERK

**COMMISSIONERS COURT OF ELLIS COUNTY
FLOOD DAMAGE PREVENTION ORDER**

On September 30, 2025, the Commissioners’ Court of Ellis County, Texas, convened in a regular session of said court on the 2nd Floor of the Ellis County Historic Courthouse located at 101 West Main Street, Waxahachie, Texas, with the following members present, to wit:

COUNTY JUDGE:

Judge John Wray

COMMISSIONERS:

- Randy Stinson, Commissioner, Pct. 1
- Louis Ponder, Commissioner, Pct. 3
- Lane Grayson, Commissioner, Pct. 2
- Kyle Butler, Commissioner, Pct. 4

AND AMONG OTHER PROCEEDINGS, THE FOLLOWING ORDER WAS PASSED AS FOLLOWS:

AN ORDER OF THE COMMISSIONERS’ COURT OF ELLIS COUNTY, TEXAS, AMENDING ITS FLOOD DAMAGE PREVENTION ORDER, LAST ADOPTED ON OCTOBER 17, 2023, UNDER MINUTE ORDER NO. 477.23. THESE PROPOSED AMENDMENTS PRIMARILY ADDRESS: UPDATING THE PENALTY CLAUSE FOUND IN SECTION 4, WITH THE REMAINING EXHIBIT A REMAINING IN FULL FORCE AND EFFECT, PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE

WHEREAS, the Commissioners’ Court of Ellis County is the governing body of Ellis County, Texas, and

WHEREAS, it is hereby found and declared by Ellis County that severe flooding has occurred in the past within its jurisdiction and will certainly occur in the future and is likely to result in the infliction of serious personal injury or death and is likely to result in substantial injury or destruction of property within its jurisdiction; and

WHEREAS, in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program (NFIP) through the Federal Emergency Management Agency (FEMA) and to effectively remedy the situation described herein, this Order is necessary; and,

WHEREAS, under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, residents of Ellis County can qualify for flood insurance coverage if Ellis County adopts and enforces floodplain management criteria consistent with the need to establish minimum development standards within unincorporated land areas designed as flood-prone by the Federal Emergency Agency; and,

WHEREAS, under Subchapter I, Section 16.313 of the Texas Water Code, counties are defined as authorized political subdivisions of the state; and,

WHEREAS, under Subchapter I, Sections 16.315, 16.322, 16.3221, and 16.323 of the Texas Water Code, a political subdivision is authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program; and,

WHEREAS, the Commissioners' Court desires to implement and enforce a development permit system and regulations to qualify and maintain the eligibility of residents in the unincorporated areas of Ellis County to purchase federal flood insurance; and,

WHEREAS, under Subchapter I, Sections 16.315 (16) and 16.324 of the Texas Water Code, the Commissioners' Court may set reasonable fees to cover the cost to administer the local floodplain management program and for the County's issuance of a permit; and,

WHEREAS, previous map updates occurred on August 16, 1977; August 19, 1987; January 20, 1999; January 5, 2006; and June 13, 2013; and,

WHEREAS, the previous known historic orders adopted by the Ellis County Commissioners' Court are Minute Order No. 7050, Minute Order No. 98-355, Minute Order No. 182.13, and Minute Order 477.23; and,

WHEREAS, the Commissioners' Court of Ellis County, Texas, in compliance with the laws of the State of Texas and the orders of Ellis County, Texas, have given the requisite notices and otherwise, and after holding and affording a full and fair hearing to all interested persons, and in the exercise of its legislative discretion, have concluded that this proposal should be approved;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS' COURT OF ELLIS COUNTY, TEXAS, THAT:

SECTION 1. The Order previously adopted on October 17, 2023, under Minute Order 477.23, as set forth in Exhibit A, shall remain in full force and effect without modification. The only revisions to this Order are (i) an update to Section 4 (Penalties for Non-Compliance) to remove an inapplicable citation and instead reference the entire section instead, and (ii) other minor administrative updates not reflected in Exhibit A, including revisions to personnel references, dates, and supporting documentation.

SECTION 2. CONFLICTS.

To the extent of any irreconcilable conflict with the provisions of this Order and other orders of Ellis County governing the use and development of the property and which are not expressly amended by this Order, the provisions of this Order shall be controlling.

SECTION 3. SEVERABILITY CLAUSE

If any word, phrase, clause, sentence, Section, provision, or part of these Regulations is held invalid or unconstitutional by any court of competent jurisdiction, it shall not affect the validity of the remaining portions of these Regulations, with remaining portions shall remain in force and effect. It is also hereby declared to be the intent of the Ellis County Commissioners' Court that these Regulations would have been adopted as to the remaining portions, regardless of the invalidity of any part. In the event that any portion of these Regulations might be interpreted in such a way as exceeding the County's authority, such provision should be construed to apply only to the extent authorized by law.

SECTION 4. 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 as indicated in Section 16

of the Texas Water Code. 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 per day for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Ellis County Commissioners Court from taking such other lawful action necessary to prevent or remedy any violation.

SECTION 5. EFFECTIVE DATE.

This Order shall become effective after its passage on September 30, 2025, and it is accordingly so ordained.

PASSED, APPROVED, AND ADOPTED IN OPEN COURT BY THE COMMISSIONERS' COURT OF ELLIS COUNTY, TEXAS, ON THIS THE 30TH DAY OF SEPTEMBER 2025.

John Wray
John Wray, County Judge

Randy Stinson
Commissioner Randy Stinson, Precinct No. 1

Absent
Commissioner Lane Grayson, Precinct No. 2

Louis Ponder
Commissioner Louis Ponder, Precinct No. 3

Kyle Butler
Commissioner Kyle Butler, Precinct No. 4

ATTEST:

I, the undersigned, Krystal Valdez, County Clerk for Ellis County, do hereby certify that the above is a true and correct copy of an order duly adopted by the Ellis County Commissioners Court at a regular meeting duly convened on September 30, 2025.

Krystal Valdez
Krystal Valdez, County Clerk



EXHIBIT A
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, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Commissioners Court of Ellis County, Texas, does ordain as follows:

SECTION B. FINDINGS OF FACT

- (1) The flood hazard areas of the unincorporated areas of Ellis 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, floodproofed 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 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 the 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 that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

ARTICLE 2

DEFINITIONS

Unless specifically defined below, words or phrases used in this order shall be interpreted to give them the meaning they have in common usage and to give this order its most reasonable application. For terms, phrases, words, and derivations that are not within these sets of regulations, they may be located in the County's other associated development regulations or through FEMA-established regulations or practices.

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.

APPEAL – means a request for a review of the Floodplain Administrator or designee's interpretation of any provision of these Floodplain Management Regulations or a request for a variance.

APPURTENANT STRUCTURE – means a structure on the same parcel of property as the principal structure to be insured, which is incidental to the use of the principal structure.

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

AREA OF SHALLOW FLOODING – means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD – is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, or V.

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

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

BASEMENT – any building area with its floor subgrade (below ground level) on all sides.

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

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

DEVELOPMENT – means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING – means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELEVATION CERTIFICATE – means a document certified by a licensed professional land surveyor used to establish the lowest floor (including basement) elevation of a building. All new construction or substantial improvements to existing buildings in flood hazard areas shall obtain an elevation certificate and provide the necessary information in accordance with the FEMA's (FEMA) National Flood Insurance Program (NFIP) instructions.

ENCLOSURE – means a fully enclosed area below the lowest floor usable solely for parking vehicles, building access, or storage in an area other than a basement and meets the non-elevation design requirements of Section 60.3 (see definition of the lowest floor).

EXISTING CONSTRUCTION – means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING – means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters.
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY – means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD INSURANCE RATE MAP (FIRM) – means an official map of a community on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

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

FLOODPLAIN ADMINISTRATOR – means the County Engineer or designee.

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

FLOODPLAIN MANAGEMENT – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose orders (such as orders regarding floodplain, grading, erosion control, etc.), 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 that reduce or eliminate flood damage to real estate or improved real property, water, and sanitary facilities, structures, and their contents.

FLOODWAY – see *Regulatory Floodway*

FUNCTIONALLY DEPENDENT USE – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE – means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory 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.

LEEVE – 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.

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

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

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

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

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

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

NO RISE CERTIFICATE – means a document certified by a licensed registered professional engineer to determine if a project will increase flood heights. An engineering analysis must be conducted before a permit can be issued. The No-rise Certification must be supported by technical data based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

RECREATIONAL VEHICLE – means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY – means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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

SPECIAL FLOOD HAZARD AREA – see *Area of Special Flood Hazard*

START OF CONSTRUCTION – for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement. 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 the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

VARIANCE – means a grant of relief by the Ellis County Commissioners Court from the terms of a floodplain management regulation. (See Section 60.6 of the National Flood Insurance Program regulations for full requirements.)

VIOLATION – means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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

ARTICLE 3 **GENERAL PROVISIONS**

SECTION A. LANDS TO WHICH THIS ORDER APPLIES

The order shall apply to all areas of special flood hazard with the jurisdiction of the unincorporated areas of Ellis County. No additional authority shall be given to another local government or entity without a separate approved agreement from the Ellis County Commissioners Court.

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Ellis County and Unincorporated Areas," dated October 19, 2023, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this order.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

- (1) A Floodplain Development Permit shall be required to ensure conformance with the provisions of this order.
- (2) Development permits shall be valid for eighteen (18) months from the date of issuance.
 - (a) A one-time extension of six (6) months may be granted by staff on the same permit if ample reasons can be given for the extension and before the expiration of the existing permit.
 - (b) After the six-month extension period, the permit holder shall apply for a new development permit to continue construction and meet other applicable regulations in effect at that time.

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, an interpretation as listed in Section F (2) below shall be required.

SECTION F. INTERPRETATION

- (1) In the interpretation and application of this order, all provisions shall be (a) considered as minimum requirements, (b) liberally construed in favor of the governing body, and (c) deemed neither to limit nor repeal any other powers granted under State statutes.
- (2) As needed, the Floodplain Administrator shall provide interpretations of these regulations.
 - (a) Rulings are issued on a case-by-case basis and shall not set a precedent for other similar situations.
 - (b) If an applicant disagrees with the interpretation provided, that decision may be appealed to the Commissioners' Court within 45 days of the Floodplain Administrator's determination with a written letter addressed to the Commissioners Court outlining the reason(s) for the appeal and pay any associated fees as outlined in the latest adopted Master Fee Schedule. If no appeal is filed within that timeframe, the Floodplain Administrator's interpretation is final.

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.

ARTICLE 4 ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The County Engineer 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) Review permit application to determine whether to ensure that the proposed building site project will be reasonably safe from flooding.
- (3) Review, approve, or deny all applications for development permits required by the adoption of this order.
- (4) Review proposed development permits to ensure that all necessary permits have been obtained from those Federal, State, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 5.
- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more

than one-tenth (1/10) of one (1) foot at any point within the community. In addition, development shall not reduce total valley storage for all special flood hazard areas on the community's FIRM. The only exception that will be considered is an increase confined to being within the limits of the property that is proposed for reclamation, and such rise will be limited to a maximum of six (6) inches within the subject tract.

- (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 appoint qualified persons to review all permit applications and approve such permits that comply with this Order.
- (12) For properties requiring enforcement actions, qualified persons may enter onto property to perform the duties required by this order and the issuance of letters of violation and/or citations to violators of these Regulations, notice will be provided by the County to the affected property owner prior to entry by any reasonable means that serves as actual notice or certified and regular mail at least five (5) business days before a site visit and inspection.
 - (a) No prior notification is required if:
 - (i) There is an active permit application on the property or,
 - (ii) A public flood-type emergency as determined by the Floodplain Administrator occurs.

SECTION C. PERMIT PROCEDURES

- (1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by them or online submittal method 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, or other items indicated on the application form/online submittal method and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - (a) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 - (b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 - (c) A certificate from a registered professional engineer that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);
 - (d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed development;
 - (e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);

- (f) A site plan showing the proposed development and the proposed grading, along with a drainage study or plan showing the effect of the site on adjacent developments designed by a registered professional engineer in the State of Texas.
- (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 for 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) Adherence to the most recently adopted regulations regarding on-site sewage facilities (OSSF); the Ellis County Quality Growth Initiatives – Volumes I, II, and III; and adopted Fire Code, where applicable.
 - (k) Developments requiring permits from other governments or other applicable agencies shall comply with all their applicable regulations and permit requirements before submitting a permit application with Ellis County.
 - (l) The Floodplain Administrator may require the submission of additional information, drawings, specifications, or documents if they are unable to determine whether a permit should be issued from the information submitted.

SECTION D. VARIANCE PROCEDURES

- (1) The Ellis County Commissioners Court shall hear and render judgment on requests for variances from the requirements of this order.
 - (a) A person desiring to obtain a variance from any requirement of these regulations or applicable statutes shall submit a detailed request for a variance to the Ellis County Department of Development with an application and applicable fees.

- (b) The request shall cite the specific regulation provision and/or statute from which the variance is sought and shall include detailed reasons for the variance.
- (2) The Ellis County Commissioners Court shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this order.
 - (a) Prior to a hearing before the Commissioners' Court, a notice shall be sent to adjacent property owners (found on the latest appraisal tax rolls) via United States Postal Service (USPS) regular mail within two hundred (200) feet of the subject site/property/affected floodplain seeking the relief at least ten (10) days in advance of the proposed meeting advertising the proposed relief sought.
 - (b) Such findings of the Commissioners' Court, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Commissioners' Court meeting at which such relief is sought.
- (3) Any person or persons aggrieved by the decision of the Ellis County Commissioners Court may appeal such decision in the courts of competent jurisdiction.
 - (a) The appeal under this Section shall be filed within 45 days from the date of the Ellis County Commissioners' Court order in which the decision is rendered. If no appeal is filed within that timeframe, the Commissioners Court decision is final.
- (4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this order.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this order, the Ellis County Commissioners Court may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this order (Article 1, Section C).
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

- (10) Prerequisites for granting variances:
- (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (b) Variances shall only be issued upon (i) showing a good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or orders.
 - (c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

ARTICLE 5
PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B (8), or (iii) Article 5, Section C (3), the following provisions are required:

- (1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including the basement) elevated to or 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 to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer shall develop and/or review structural design, specifications, and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.
- (3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or 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 (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one (1) foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (4) **Manufactured Homes** -
 - (a) Require all manufactured homes placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the

purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include but are not limited to, the use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

- (b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH, and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - (i) the lowest floor of the manufactured home is at or above the base flood elevation or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and;
 - (iii) be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (6) **Bridges** - A conditional letter of map revision (CLOMR) and a letter of map revision (LOMR) must be submitted for all bridge projects that modify the base flood elevation or modify the geometry of the channel or bridge.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

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

- (2) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this order.
- (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.
- (4) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
- (6) Subdivision proposals that propose increased flood elevations on existing infrastructure and/or utilities (including, but not limited to, roads, railroads, power facilities, drinking water production and distribution facilities, and telecommunication facilities) may require additional approval by or letter of no objection from the owner of the affected infrastructure. Such development activities will be handled on a case-by-case basis as determined by the Floodplain Administrator.

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

Located within the areas of special flood hazard established in Article 3, Section B are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).
- (2) All new construction and substantial improvements of **non-residential** structures;
 - (a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or
 - (b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer 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 floodwaters around and away from proposed structures.

SECTION E. FLOODWAYS

Floodways - located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.
- (4) Zero (0) rise in BFE.