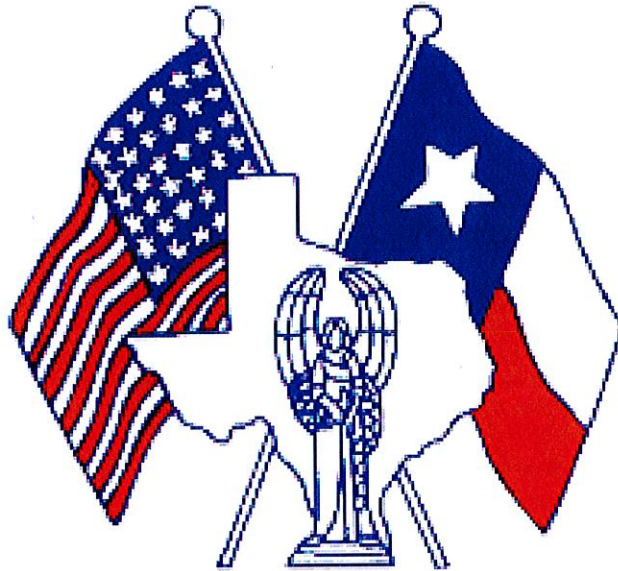


FLOOD DAMAGE PREVENTION REGULATIONS

**REGARDING DEVELOPMENT IN THE
UNINCORPORATED AREAS OF
FAYETTE COUNTY, TEXAS**

EFFECTIVE JULY 3, 2017



FEMA

NATIONAL FLOOD INSURANCE REFORMS

FLOOD DAMAGE PREVENTION REGULATIONS

Table of Contents

SECTION 1 – APPLICABILITY	3
Legal Authority	3
Area Covered by Regulations	3
Statement of Purpose	3
Approval Required Prior to Development	3
Methods of Reducing Flood Losses	4
 SECTION 2 - DEFINITIONS	4
 SECTION 3 - GENERAL PROVISIONS	11
Lands to Which These Regulations Apply	11
Basis for Establishing the Areas of Special Flood Hazard	11
Establishment of Development Permit System	11
Compliance	11
Abrogation and Greater Restrictions	12
Interpretation	12
Warning and Disclaimer of Liability	12
Establishment of Fees	12
 SECTION 4 – ADMINISTRATION	12
Designation of the Floodplain Administrator	13
Duties and Responsibilities of the Floodplain Administrator	13
Classification of Flood Hazard Area Permits	14
Permit Procedures	14
Expiration of Flood Hazard Area Permits	16
Variance Procedures	16

SECTION 5 - PROVISIONS FOR FLOOD HAZARD REDUCTION 17

 General Standards 17

 Specific Standards 18

Residential Construction 18

Non-Residential Construction 18

Enclosures 19

Manufactured Homes 19

Recreational Vehicles 20

 Standards for Subdivision Proposals 20

 Standards for Areas of Shallow Flooding (AO/AH Zones) 21

 Floodways 21

 Severability 22

 Penalties for Non-Compliance 22

Civil 22

Criminal 22

 Enforcement by a Political Subdivision 23

Commissioners' Court Adoption of Order 23

Certification of Adoption of the Regulations 24

Acknowledgement 24

FLOOD DAMAGE PREVENTION REGULATIONS

Section 1 - Applicability

§1.01. Legal Authority

These Flood Damage Prevention Regulations are adopted by the Commissioners' Court of Fayette County, Texas, acting in its capacity as the governing body of Fayette County, Texas. The authority of Fayette County to adopt these Regulations and the provisions therein is derived from the Flood Control and Insurance Act, Sections 16.311 through 16.324, Texas Water Code Annotated. The Legislature of the State of Texas has authorized local governmental units to adopt regulations to minimize flood losses.

§1.02. Area Covered by Regulations

These regulations shall govern activities associated with development in the unincorporated areas of Fayette County, Texas.

§1.03. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions and flooding, by provisions designed to:

- (A) Protect human life and health;
- (B) Minimize the cost of flood insurance, and maintain the availability of flood insurance, to persons and property owners who are in compliance with these regulations;
- (C) Minimize expenditure of public money for costly flood control projects;
- (D) Minimize the need for rescue and relief efforts associated with flooding, which are generally undertaken at the expense of the general public, and which are often dangerous to the rescue participants and emergency responders;
- (E) Minimize prolonged business interruptions, and minimize damage, losses, inconveniences, and interruptions to business enterprises and persons who are in compliance with these regulations;
- (F) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;
- (G) 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
- (H) Ensure that potential buyers are notified that property is in a floodplain or a flood prone area.

§1.04. Approval Required Prior to Development

Approval by Fayette County is required prior to conducting development activities in the unincorporated areas of Fayette County, and in Special Flood Hazard Areas, unless the development activity is excluded under State law. Prior to any development within the

unincorporated areas of Fayette County, an application for development must be submitted to the Office of Floodplain Administration for approval. Only applications on forms provided by the Floodplain Administrator and completed, signed and submitted by the property owner will be accepted and reviewed by the Fayette County Floodplain Administrator.

§1.05. Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations authorize the use of the following methods:

- (A) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause increases in flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (D) Control filling, grading, dredging, and other development which may increase flood damage; and,
- (E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 2 - Definitions Specific to These Regulations

§2.01. Unless specifically defined below, words or phrases used in these regulations shall be interpreted to give them the meaning they have in common usage and to give these regulations their most reasonable application.

- (A) 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.
- (B) 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.
- (C) Appeal Board – means the three-member board appointed by the Fayette County Commissioners' Court. Each member will be appointed for a three-year term and shall be a resident and real property owner in Fayette County.
- (D) Appurtenant Structure – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

- (E) Area of Future Conditions Flood Hazard – means the land area that would be inundated by the 1-percent-annual chance (*formerly referred to as the 100-year floodplain*) flood based on future conditions hydrology.
- (F) 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.
- (G) Area of Special Flood Hazard - means 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.

Any area outside the FEMA studied areas lying along streams as shown on the United States Department of the Interior Geological Survey (hereafter referred to as "USGS") quadrants of which Fayette County is contained and/or areas with poorly draining or hydric soils which are contiguous to blue line streams as shown on the Fayette County Flood Prone Soils Map or Soil Survey shall also be considered special flood hazard areas. In determining the extent of land "contiguous" to streams, (blue line streams on some USGS maps) Fayette County has elected to establish a buffer defined by a minimum of 150 feet away from either side of the blue line for a total of 300 feet.

In areas upstream of the Limit of Detail Study, as delineated on the community FIRM, where base flood elevation data is not available, a floodplain study must be performed, at the expense of the property owner, by a Professional Engineer (PE) establishing the base flood elevation (BFE) and the floodplain and floodway boundaries, as well as future conditions flood hazard areas, prior to issuing a development permit.

- (H) Base Flood - means the flood having a 1 percent chance of being equaled or exceeded in any given year.
- (I) Base Flood Elevation (BFE) - means 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.
- (J) Basement - means any area of the building having its floor subgrade (below ground level) on all sides.
- (K) 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.

- (L) Community - means Fayette County, Texas and the unincorporated area within the boundaries of Fayette County, Texas.
- (M) 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.
- (N) 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.
- (O) 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.
- (P) 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."
- (Q) 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 flood damage prevention regulations or the floodplain management regulations adopted by Fayette County, Texas.
- (R) 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).
- (S) 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.
- (T) 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.

- (U) 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.
- (V) Flood Insurance Study (FIS) – see Flood Elevation Study.
- (W) Floodplain or Flood-Prone Area - means any land area susceptible to being inundated by water from any source (see definition of flooding).
- (X) 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 and flood damage prevention regulations.
- (Y) Floodplain Management Regulations or Flood Damage Prevention Regulations ("these regulations") - means these regulations, along with other subdivision and development regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- (Z) 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.
- (AA) 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.
- (BB) Flood Fringe – means the lands outside the floodway that are at, or below, the Base Flood Elevation that store, but do not effectively convey, floodwaters. Lands that compose the flood fringe will be inundated during a 1% chance flood event but, due to physical characteristics of the floodplain, do not effectively convey floodwaters. Flood Fringe encompasses the portion of this floodplain that could be completely obstructed without increasing the water surface elevation of a 100 year flood event more than 1 foot at any point.
- (CC) Floodway – see Regulatory Floodway.
- (DD) 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.

- (EE) Highest Adjacent Grade - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (FF) Historic Structure - means any structure that is:
- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.
- (GG) 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.
- (HH) 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.
- (II) 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 Chapter 60.3 of the National Flood Insurance Program regulations.
- (JJ) Manufactured Home - means a structure transportable in one or more sections, which is built on a permanent chassis or foundation 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."

- (KK) 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.
- (LL) 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.
- (MM) 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 the flood damage prevention regulations or the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
- (NN) 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 or flood damage prevention regulations adopted by a community.
- (OO) Recreational Vehicle - means a vehicle which is:
- (1) Built on a single chassis;
 - (2) 400 square feet or less when measured at the largest horizontal projections;
 - (3) Designed to be self-propelled or permanently towable by a truck; and
 - (4) Designed primarily not-for-use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (PP) Regulatory Floodway - means the channel of a river, creek or stream, and the overbank areas, that must remain open to carry the deeper, faster moving water during a flood. Communities shall prohibit encroachments, fill, new development, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses by a licensed professional engineer that the proposed encroachment would not result in any increase in flood levels within the community of the base flood (100-year) discharge.
- (QQ) Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- (RR) Special Flood Hazard Area - see Area of Special Flood Hazard.
- (SS) 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 new construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days of the permit date, after which period the building permit shall be null and void. Upon written request, made by the property owner using forms provided by the Floodplain Administrator, and made prior to the permit becoming null and void, an extension may be obtained so that the start of construction may be as long as within 1 year 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.

- (TT) Structure – means, for floodplain management purposes, a walled and roofed building, a manufactured home, a mobile home, a gas, propane, or liquid storage tank, a well-house, a barn, and other storage and out buildings that are principally above ground.
- (UU) 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.
- (VV) 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."
- (WW) Variance – means a grant of relief by a community from the terms of a floodplain management regulation or flood damage prevention regulation. (For full requirements see Chapter 60.6 of the National Flood Insurance Program regulations.)

- (XX) Violation - means the failure of a structure or other development to be fully compliant with the community's flood damage prevention regulations or the floodplain management regulations. A structure or other development without the elevation certificate, permits, other certifications, or other evidence of compliance required in Chapter 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.
- (YY) 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.

Section 3 - General Provisions

§3.01. Lands to Which These Regulations Apply

These regulations shall apply to all unincorporated areas within the boundaries of Fayette County, Texas, to all areas of special flood hazard within the boundaries of Fayette County, Texas, and shall apply to all areas within the jurisdiction of Fayette County, Texas. The Commissioners' Court, in order to implement the countywide application system in §3.04 of these regulations, designates the Floodplain Administrator to review all applications. If the Floodplain Administrator determines the proposed development is outside an area of special flood hazard, the Floodplain Administrator may issue a Class A Flood Hazard Area Permit (Exemption Certificate) for that development, provided all other requirements and considerations of these regulations are met. All development within the jurisdiction of Fayette County, Texas requires an application and a Flood Hazard Area Permit, in accordance with these regulations, before the development may begin or proceed.

§3.02. 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 for Fayette County Texas" dated October 11, 2006 with the most effective Flood Insurance Rate Maps and/or Flood Boundary - Floodway Maps (FIRM and/or FBFM) dated October 11, 2006, and any subsequent amendments or revisions thereto.

§3.03. Establishment of Development Permit System

A Flood Hazard Area Permit System is hereby established to ensure compliance with the provisions of these regulations. This system shall require an Application for a Development Authorization by the Applicant or the Permittee seeking the Development Authorization, for all development within the jurisdiction of Fayette County, Texas.

§3.04. Compliance

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of these regulations and other applicable regulations. All development within the unincorporated areas of Fayette County without first securing a permit is prohibited.

A county-wide application system is a necessary and reasonable action to ensure that all permits for development in flood hazard areas have been obtained. The Commissioner's Court through the Floodplain Administrator will develop and promulgate any/all forms as may be necessary for the implementation of these regulations.

Additional floodplain data may be generated which will improve the accuracy of floodplain boundary identification. Since the County will constantly be aware of map changes and additional data, the responsibility for determining whether a property or development is within a flood hazard area must rest with the Fayette County Floodplain Administrator. Flood Hazard Boundary Maps published by the Federal Insurance Administration delineate only the major flood prone areas within the County. With a County-wide review procedure, the Floodplain Administrator will be able to make recommendations for construction standards which will minimize or eliminate the possibility of damage from localized drainage problems.

§3.05. Abrogation and Greater Restrictions

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

§3.06. Interpretation

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

§3.07. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On occasions greater floods can and will occur, and flood heights may be increased by man-made or natural causes. These regulations do not imply, and these regulations are not to be interpreted to mean or provide that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability for Fayette County, Texas or any of its officials or employees, or for the community, for any flood damages that result from reliance on these regulations or for any administrative decision lawfully made hereunder. The granting of a permit does not imply that the development can be insured by Federal Flood Insurance.

§3.08. Establishment of Fees

The Commissioners' Court, upon the recommendation of the Floodplain Administrator, shall establish application fees commensurate with the service rendered by the County. Development fees are payable at the time of application.

Section 4 - Administration

§4.01. Designation of the Floodplain Administrator

The Commissioners' Court shall appoint the Floodplain Administrator to administer and implement the provisions of these regulations and other appropriate Chapters of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management. If no other individual has been appointed by the Commissioners' Court, the County Inspector of the County Development Regulations Enforcement Office, or his/her designee, shall serve as the Floodplain Administrator.

§4.02. Duties and Responsibilities of the Floodplain Administrator

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (A) Maintain and hold open for public information all records pertaining to the provisions of these regulations.
- (B) Review permit applications to determine whether the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (C) Review, approve, or deny all applications for development permits required by adoption of these regulations.
- (D) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (E) 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.
- (F) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is The Texas Commission on Environmental Quality, prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Emergency Management Agency.
- (G) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (H) When base flood elevation data has not been provided in accordance with §3.02, the Floodplain Administrator shall obtain, at property owner's expense, a Hydrologic and Hydraulic Study (H & H study) performed by a licensed Professional Engineer, to review and reasonably utilize additional base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provision of §5 of these regulations.
- (I) When a regulatory floodway has not been designated, the Floodplain Administrator shall require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A 1-30 and AE on the community's FIRM, unless it is proven with a Hydrologic and Hydraulic Study (H &

H study), done at the property owner's expense and performed by a licensed Professional Engineer demonstrating 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.

- (J) 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.

§4.03. Classification of Flood Hazard Area Permits

Development Authorizations issued as Flood Hazard Area Permits (FHAP) shall be classified as follows:

- (A) Development located on real property for which there is no Flood Hazard area (Zone X) delineated shall qualify for a Class A (Exemption Certificate) FHAP. The FHAP shall state that the proposed development is located on real property that does not lie within an identified Flood Hazard Area and that the construction standards contained in these regulations are not applicable to the proposed development. Class A FHAPs (Exemption Certificates) shall be issued by the Floodplain Administrator.
- (B) Habitable structures located on real property in flood hazard areas (Zone A, Approximate Zone A or Zone AE) shall require a Class B FHAP. Class C FHAPs that comply with the terms of these regulations may be issued by the Floodplain Administrator. Variances requested in conjunction with a Class C FHAP shall require the recommendation of the Appeal Board for consideration and action by the Commissioners' Court.
- (C) The following development activities shall qualify for the issuance of a Class C FHAP:
 - (1) Any developments which are located on real property in flood hazard areas which are designated as Areas of Shallow Flooding, as defined above; and/or
 - (2) Non-habitable structures located in flood hazard areas.

The Floodplain Administrator shall issue Class B FHAPs that comply with the terms of these regulations, including specifically authorized variances.

§4.04. Permit Procedures

Application for a Flood Hazard Area Permit shall be presented to the Floodplain Administrator on forms provided by the Floodplain Administrator and completed, signed and submitted by the property owner, and not by his/her representative, and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of existing and proposed structures, including the placement of manufactured homes and of proposed landscape alterations, and the location of the foregoing in relation to areas of special flood hazard. New Construction and substantial improvement of any structure,

including manufactured homes, shall have the lowest floor, including basement, elevated three (3) feet above the base flood elevation. Where base flood elevation data is not available, a floodplain study must be performed by a licensed Professional Engineer (PE) establishing the base flood elevation (BFE) and the floodplain and floodway boundaries prior to issuing a development permit. Additionally, the following information is required:

- (1) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - (3) A certificate from a Texas licensed Professional Engineer that the nonresidential flood proofed structure shall meet the flood proofing criteria of Section 5 of these regulations;
 - (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
 - (5) Maintain a record of all such information in accordance with Section 4 of these regulations.
- (A) Approval or denial of a Flood Hazard Area Permit by the Floodplain Administrator shall be based on all of the provisions of these regulations and the following relevant factors:
- (1) The danger to life and property or to the public health and safety due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands, whether the other lands are in or outside the Floodplain, to the injury of others, or the danger that materials may float away or be swept away and create a risk or danger to life and/or property, to the public health and/or safety, or create a risk or danger that flooding and resultant damage and danger to life and/or property will be increased;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - a. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - b. 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;
 - c. 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;
 - d. The necessity to the facility of a waterfront location, where applicable; and

- e. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- (B) It shall be unlawful to use, occupy or permit the use or occupancy of any building, development, or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Floodplain Hazard Area Permit has been issued by the Floodplain Administrator stating that the use of the development conforms to the requirements of these regulations.
- (C) If required on the Flood Hazard Area Permit, the Applicant or Permittee shall be required to submit certification by a licensed Professional Engineer that the development was accomplished in compliance with the provisions of these regulations.

The permit is required to be posted by the property owner on the job site in a place clearly visible from the nearest road or street. The property owner and all agents of the property owner are required to allow the Floodplain Administrator or the Administrator's agents to inspect the work pursuant to a permit, including as many scheduled and unscheduled inspections necessary to enforce these regulations.

§4.05. Expiration of Flood Hazard Area Permits

Approval of a Flood Hazard Area Permit shall expire and be of no further force and effect in the event that:

- (A) None of the activities authorized in the permit are commenced within one (1) year from the date of issuance; or
- (B) All of the activities authorized in the permit are not completed within two (2) years from the date of issuance.

§4.06. Variance Procedures

- (A) The Appeal Board, as established by the Commissioner's Court, shall hear requests for variances from the requirements of these regulations.
- (B) The Appeal Board shall make recommendations to Commissioners' Court 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 these regulations.
- (C) Any person(s) aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (D) 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.
- (E) 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 these regulations.

- (F) 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 at, or between, two (2) and three (3) feet above base flood level, providing the relevant factors in §4.03(B) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (G) Upon consideration of the factors noted above and the intent of these regulations, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of these regulations.
- (H) Variances shall not be issued within any designated or non-designated floodways.
- (I) 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.
- (J) Prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall 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.
 - (3) 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 at, or between, two (2) and three (3) feet above 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.

(K) 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 §4.04(B) 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.

Section 5 - Provisions for Flood Hazard Reduction

§5.01. General Standards

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

- (A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding and shall be set at a minimum of three (3) feet above base flood elevation;
- (E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system, and shall be set at a minimum of three (3) feet above base flood elevation;
- (F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
- (G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§5.02. Specific Standards

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

- (A) Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to at least three (3) feet above the base flood elevation. A Texas licensed Professional Engineer shall submit a certification to the Floodplain Administrator that the standard of this Section as stated in §4.03 is satisfied.
- (B) Non-Residential Construction - new construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least three (3) feet above the base flood level. Attendant utility and sanitary facilities shall 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 Texas licensed 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 Section. 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.

(C) Enclosures -New construction and substantial improvements: 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 (i) designed, by a Texas licensed and Professional Engineer, to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters and (ii) be less than 100 square feet of area. Designs for meeting this requirement must be certified by a licensed Professional Engineer to meet or exceed the following minimum criteria:

- (1) A minimum of two (2) 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;
- (2) The bottom of all openings shall be no higher than one (1) foot above grade;
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(D) Manufactured Homes

(1) Require that all manufactured homes to be placed within Zone A, Approximate Zone A or Zone AE on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(2) 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 to at least three (3) feet above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, on all sites:

- (a) Outside of a manufactured home park or subdivision;
- (b) In a new manufactured home park or subdivision;
- (c) In expansion to an existing manufactured home park or subdivision; or
- (d) In existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as result of a flood.

(3) 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 §5.02(D)(2) be elevated so that either: the lowest floor of the manufactured home is at least three (3) feet above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation

elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (E) Recreational Vehicles - 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 §4.03, and the elevation and anchoring requirements for "manufactured homes" in §5.02(D)(2). 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.

§5.03. Standards for Subdivision Proposals

- (A) In all areas of special flood hazard where base flood elevation data is not available, the applicant (property owner) shall provide a hydrologic and hydraulic engineering analysis (H & H) that generates base flood elevations and floodway boundaries for all subdivision proposals, and other proposed developments greater than 5 acres or 5 lots in size. These studies may be submitted to FEMA as a request for map revision if appropriate, if not otherwise provided pursuant to these regulations.
- (B) All preliminary plans for platted subdivisions shall identify the flood hazard area and the elevation of the base flood as well as future conditions flood elevations.
- (C) All final subdivision plats will provide the boundary of the special flood hazard area, the floodway boundary, and base flood elevations as well as future conditions flood elevations.
- (D) In platted subdivisions, all proposed lots or parcels that will be future building sites shall have a minimum buildable area outside the natural (non-filled) 1% chance annual floodplain. The buildable area shall be large enough to accommodate any primary structure and associated structures such as sheds, barns, swimming pools, detached garages, on-site sewage disposal systems, and water supply wells, if applicable.
- (E) Approval shall not be given for streets within a subdivision, which would be subject to flooding in the base flood. All street surfaces must be located at or above the base flood elevation.
- (F) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with these regulations, and shall be approved by the County Floodplain Administrator prior to issuance of the Development Authorization by the County. Plat specifications and details for submission are also governed by other applicable regulations of Fayette County, Texas.
- (G) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet the requirements these regulations.

- (H) All subdivision plats shall have the Floodplain and Floodway clearly delineated on the plat.
- (I) All subdivision Applications including the placement of manufactured home parks and subdivisions shall include provisions for adequate drainage as required under other applicable regulations of the State and of Fayette County, Texas, to reduce exposure to flood hazards.
- (J) All subdivision Applications 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.
- (K) All subdivision Applications which include land which is encroached by areas of special flood hazard, must include the placement of a permanent benchmark indicating the elevation relative to mean sea level. The benchmark must be located within the platted property, and must be indicated on the subdivision plat.

§5.04. Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard as defined above 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:

- (A) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to at least three (3) feet above the base flood elevation;
- (B) All new construction and substantial improvements of non-residential structures shall have the lowest floor (including basement) elevated to at least three (3) feet above the base flood elevation.
- (C) A licensed Professional Engineer shall, at the property owner's expense, submit a certification to the Floodplain Administrator that the standards of these regulations are satisfied.
- (D) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

§5.05. Floodways

Located within areas of special flood hazard are areas designated as floodways. The floodway is the channel of a river, creek or stream, and the overbank areas, that must remain open to carry the deeper, faster moving water during a flood. 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:

- (A) Encroachments (any floodplain development that could obstruct flood flows, including fill, a bridge, a building, new construction, substantial improvements) are prohibited. All other development within the adopted regulatory floodway is also prohibited 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 Fayette County during the occurrence of the base flood discharge. A licensed Professional Engineer, at the property owner's expense, will have to demonstrate, in writing under his/her seal, that the proposed encroachment shall not result in any rise in the 100-year flood elevation.
- (B) If §5.05(A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of the remainder of these regulations.
- (C) Under the provisions of 44 CFR Chapter 1, Chapter 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 Chapter 65.12.

§5.06. Severability

If any section, clause, sentence, or phrase of these regulations 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 these regulations.

§5.07. Penalties for Non-Compliance

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

- (A) CIVIL PENALTY: A person who violates these regulations, or fails to comply with any of its requirements, is subject to a civil penalty of not more than \$100 for each act of violation and for each day of violation, and in addition shall pay all costs and expenses incurred in this case by the community.
- (B) CRIMINAL PENALTY:
 - (1) A person commits an offense if the person violates these regulations or fails to comply with any of its requirements, and shall upon conviction thereof be fined not more than \$500.00 for each violation;
 - (2) An offense under these regulations is a Class C misdemeanor;
 - (3) Each violation of these regulations and each day of continuing violation is a separate offense.

§5.08. Enforcement By Political Subdivision:

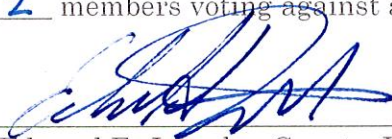
(A) If it appears that a person has violated, is violating, or is threatening to violate these regulations or a rule adopted by order issued under these regulations, a political subdivision may institute a civil suit in the appropriate court for:

- (1) Injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove improvements not authorized or allowed by these regulations, to remove illegal improvements, and to restore preexisting conditions;
- (2) The assessment and recovery of the civil penalty; or
- (3) Both the injunctive relief and the civil penalty.

(B) On application for injunctive relief and a finding that a person has violated, is violating, or is threatening to violate these regulations or rule adopted, or order issued under these regulations, the court shall grant the injunctive relief that the facts warrant.

Nothing herein contained shall prevent Fayette County from taking such other lawful action as is necessary to prevent or remedy any violation of these regulations.

CONSIDERED, ADOPTED, MADE, ORDERED TO BE EFFECTIVE ON JULY 3, 2017, SIGNED, AND DONE IN OPEN MEETING AND OPEN COURT by vote of the Fayette County Commissioners' Court on this the 3rd day of July, 2017, upon motion of Commissioner Berckenhoff, seconded by Commissioner Judge Janecka, with 5 members of the Commissioners' Court being present, 3 members of Commissioners' Court voting in favor thereof, 2 members voting against and 0 members abstaining.


Edward F. Janecka, County Judge

Against
Jason McBroom, Commissioner, Prct. 1

Harvey Berckenhoff
Harvey Berckenhoff, Commissioner, Prct. 3

Against
Gary Weishuhn, Commissioner, Prct. 2

Tom Muras
Tom Muras, Commissioner, Prct. 4

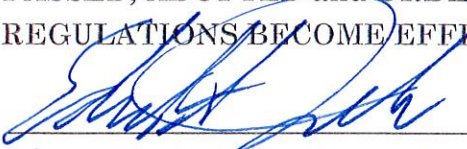
ATTEST:

Julie Karstedt
Julie Karstedt, County Clerk and
Clerk of the Commissioners' Court



CERTIFICATION OF ADOPTION OF THE FLOOD DAMAGE PREVENTION
REGULATIONS OF FAYETTE COUNTY TEXAS,
EFFECTIVE JULY 3, 2017

APPROVED and ORDERED by the Fayette County Commissioners' Court.
PASSED, ADOPTED and ORDERED: July 3, 2017.
REGULATIONS BECOME EFFECTIVE: July 3, 2017.



Edward F. Janecka, Fayette County Judge

ATTEST:

7/5/2017 12:45 PM



Julie Karstedt, County Clerk and
Clerk of the Commissioners' Court

STATE OF TEXAS COUNTY OF FAYETTE
I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me and was duly
RECORDED in the Volume and Page of the OFFICIAL RECORDS
of Fayette County, Texas as stamped hereon above time.

JULIE KARSTEDT, COUNTY CLERK

Stamps: 25 Page(s) *KS*



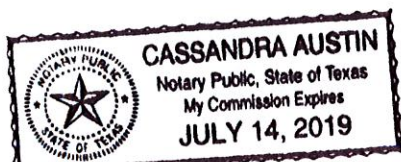
ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF FAYETTE

Before me, the undersigned Notary Public in and for said County and State, on this day personally appeared EDWARD F. JANECKA, County Judge of Fayette County, Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and that he executed the same on behalf of Fayette County, Texas in his capacity as County Judge of Fayette County, Texas.

Given under my hand and seal of office this 3rd day of July, 2017.



(Seal)



Notary Public, State of Texas