

### **ARANSAS COUNTY**

# AMENDED FLOODPLAIN MANAGEMENT & WATERSHED PROTECTION ORDER

ORDER 0-23-2019

EFFECTIVE DATE: 12-9-2019

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# ARTICLE 1 - STATUTORY AUTHORIZATION, FINDING OF FACTS, PURPOSE AND METHOD

#### SECTION A - STATUTORY AUTHORIZATION

These regulations are adopted by the Commissioners Court of Aransas County, Texas, acting in its capacity as the governing body of Aransas County. The authority of Aransas County to adopt these regulations and for the contents hereof is derived from the following statues: The Flood Control and Insurance Act, Subchapter I of Chapter 16 of the Texas Water Code, as amended; Chapter 240, Section 240.901 of the Texas Local Government Code; Chapter 232 of the Texas Local Government Code, as amended; Chapter 233 of the Texas Local Government Code, as amended; Chapter 242 of the Texas Local Government Code, as amended. These regulations may be amended at any time by a majority of Commissioners Court as approved by the appropriate federal authorities. Therefore, the Commissioners' Court of Aransas County, Texas, does ordain as follows:

#### SECTION B - FINDINGS OF FACT

- The flood hazard areas of Aransas County are subject to periodic inundation, which
  results in the 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 related losses are created by the cumulative effect of obstructions in the floodplains which caused increase in flood heights and velocities, and the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

- 3. Ecotourism is a primary industry in Aransas County. Property values in Aransas County are directly correlated to the condition of the waters in the bays and estuaries surrounding Aransas County. Flood related losses are a function of not only the quantity of water, but also the quality of water draining from the floodplains.
- 4. It is hereby found by the Commissioners' Court of Aransas County that severe flooding has occurred in the past within its jurisdiction and is likely to occur in the future, and that damage to property occurs for many reasons including flooding from the tidal waters of the Gulf of Mexico and that the entire area within its jurisdiction is a flood-prone area.

#### SECTION C - STATEMENT OF PURPOSE

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

- 1. Protect human life and health:
- 2. Minimize expenditures of public money for costly flood control projects;
- Minimize the need for rescue and relief efforts associated with flooding and generally undertake at the expense of the general public;
- Minimize prolonged business interruptions;
- Minimize damage to public facilities and utilities such as water and gas mains,
   electric, telephone and sewer lines, streets and bridges located in the floodplains;
- Help maintain a stable tax base by providing for the sound use and development of flood- prone areas in such a manner as to minimize future flood blight areas; and,
- 7. Insure that potential buyers are notified that property is in the flood area.

#### SECTION D - METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this regulation uses the following methods:

- 1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increase in flood heights or velocities;
- 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3. Require that for all new residential construction the finished floor (or lowest horizontal beam in applicable Special Flood Hazard Areas), be a minimum of eighteen (18") inches of freeboard above the Base Flood Elevation shown on the County adopted Flood Insurance Rate Maps (FIRM's) or other flood maps or flood elevation studies approved by the County Engineer. If flood maps or flood elevation studies are not available, require all new construction be a minimum eighteen (18") inches above the highest adjacent natural ground level;
- 4. Require that for all new non-residential construction the finished floor (or lowest horizontal beam in applicable Special Flood Hazard Areas), or level of dry floodproofing be a minimum of eighteen (18") inches of freeboard above the Base Flood Elevation shown on the County adopted Flood Insurance Rate Maps (FIRM's) or other flood maps or flood elevation studies approved by the County Engineer. If flood maps or flood elevation studies are not available, require all new construction be a minimum eighteen (18") inches above the highest adjacent natural ground level;
- 5. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodations of floodwaters;
- 6. Control filling, grading, dredging and other development which may increase flood damage;
- 7. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- 8. Maintain the Aransas County Multi-Jurisdictional Floodplain Management & Stormwater Management Plan that identifies stormwater control measures and methodologies for future development and implement updates as needed.

#### **ARTICLE 2 - DEFINITIONS**

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 this regulation its most reasonable application.

ACCESSORY BUILDING - a permanent building that is incidental and subordinate to the main use of the property. An accessory building is always located on the same lot as the main building and shall not be used as a secondary residence or for commercial use. Examples of accessory buildings include garages, barns, storage buildings, and workshops.

**ALLUVIAL FAN FLOODING** - 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 process of erosion, sediment transport, and deposition; and unpredictable flow paths.

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

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

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

AREAS OF SHALLOW FLOODING - the designated AO, AH, VO zones on a community's Flood Insurance Rate Map (FIRM) with a one-percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where may be evident. Such flooding is characterized by ponding of sheet flow.

AREA OF SPECIAL FLOOD HAZARD - the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. The area may be designated as a Zone A on the Flood Hazard Boundary Map (FHBM). After

detailed ratemaking has been completed a preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AH, AO, A1-99, VO, V1-30 VE or V.

ASSUMED FLOOD PRONE AREA – areas outside of the Special Flood Hazard Areas, or areas outside of the one-percent (1%) annual floodplain (See Designated Flood Prone Areas)

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

BASE FLOOD ELEVATION (BFE) - The elevation shown in 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.

BASE FLOOD DEPTH (BFD) – The depth shown on the Flood Insurance Rate Map (FIRM) for Zone AO that indicates the depth of the water above highest adjacent grade resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year.

**BREAKAWAY WALLS** - 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.

**BUILDING PERMIT** - a development permit or repair permit.

CERTIFICATE OF APPROVAL - A Permit issued by the designated Floodplain that approves and certifies all necessary public services have been installed and tested to meet current standards; and that all fees and sureties have been properly submitted and accepted. Certificate of Approval (or "C.A.") includes the terms "Authorization to Construct," "Notice of Approval," and "Customer Service Inspection." Such certificates are issued by Aransas County, municipalities and other public service providers.

**CONDITIONAL LETTER OF MAP REVISION (CLOMR)** - A CLOMR is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the

existing regulatory floodway, the effective base flood elevations, or the Special Flood Hazard Area (SFHA).

CONDITIONAL LETTER OF MAP REVISION - FILL (CLOMR-F) - A CLOMR-

F is FEMA's comment on a proposed project that would, upon construction, result in a modification of the SFHA through the placement of fill outside the existing regulatory floodway.

COASTAL HIGH HAZARD AREA – A Special Flood Hazard Area highly susceptible to flooding as well as the hazard high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone V1-30, VE or V, and mandatory flood insurance purchase requirements apply.

**COMPLIANT** - A structure that meets all currently adopted development regulations. **CRAWLSPACE** - An under-floor space that has its interior floor area (finished or not) no more than 5 feet below the top of the next-higher floor. Crawlspaces generally have solid foundation walls.

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

**DESIGNATED FLOOD PRONE AREA** – areas outside of the Special Flood Hazard Areas, or areas outside of the one-percent (1%) annual floodplain, that have localized depressions that accumulate stormwater identified by County hydrologic studies. (See Assumed Flood Prone Areas)

**DEVELOPMENT** - any man-made change in improved or unimproved real estate including but not limited to building, or other structures construction, mining, dredging, filling, grading, paving, excavation or drilling operations, and/or the storage of materials or equipment.

**DEVELOPMENT PERMIT** - a permit for the construction of a development. Also called a building permit or permit in these regulations.

**ELEVATED BUILDING** - a non-basement building built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the bottom of the lowest floor, or in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor above the ground level by means

of piling, columns (post or piers), or shear walls parallel to the flow of water; and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

In the case of Zones V1-30, VE or V "elevated building' also includes a building otherwise meeting the definition of "elevated building", even though the lowest areas are enclosed by means of breakaway walls meet the standards, of Section 60.3 (e) (5) of the National Flood Program Regulations.

**ELEVATION CERTIFICATE** – the Elevation Certificate developed by FEMA on which a state-licensed surveyor or engineer records information required for verifying compliance with the most recently adopted floodplain management regulations.

**ENCLOSURE** – An enclosed (walled in) area below the lowest floor of a structure that is used solely for building access, vehicle parking, and/or storage.

**EXISTING CONSTRUCTION** - 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 FIRM's effective before that date. "Existing construction" may also be referred to as "existing structure."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - a manufactured home park or subdivision for which the construction of facilities for serving 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 complete before the effective date of the floodplain management regulation is adopted by a community.

#### EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR

**SUBDIVISION** - the preparation of additional sites by the construction of facilities for serving 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 pouring of concrete pads).

**FLOOD OR FLOODING** - 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 - 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)** - an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** - the official report provided by the federal Emergency Management Agency. The report contains flood profiles, water surface elevations of the base flood as well as the Flood Boundary-Floodway Map.

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

**FLOODPLAIN MANAGEMENT-** the operations 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 - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any thereof, which provide standards for the purpose of flood damage prevention and reduction.

**FLOODPLAIN PROTECTION SYSTEM** - 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 areas 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** - any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** (**REGULATORY FLOODWAY**) - 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.

**FREEBOARD** – An additional amount of height above the Base Flood Elevation or Base Flood Depth used as a factor of safety in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with community floodplain management regulations.

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

**HABITABLE FLOOR** – means any floor of a building or structure usable for sleeping, living, cooking, working, recreation or any combination thereof. Bathrooms and utility rooms are included in this definition, as are storage areas.

**HIGH RISK AREA** – A Special Flood Hazard Area highly susceptible to flooding. High risk areas are designated on FIRM's as Zones A, AE, A1-30, AH, AO, AR, and A99, and mandatory flood insurance purchase requirements apply.

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

**HISTORIC STRUCTURE** - any structure that is identified as any of the following:

- Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determination by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2. Certified of 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 an approved program.

**IMPROVEMENTS** – fixtures, alterations, installations, or additions to an existing structure.

**LETTER OF MAP AMENDMENT (LOMA)** - means FEMA's comment or official letter of an amendment to the currently effective FEMA Flood Insurance Rate Map (FIRM), which established that a structure or group of structures is not located in a Special Flood Hazard Area (SFHA) as shown on the FIRM. A LOMA is issued only by FEMA.

LETTER OF MAP REVISION (LOMR) - means FEMA's modification to an effective FIRM or flood boundary and floodway map or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or flood boundary and floodway map, and sometimes the flood insurance study report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, flood boundary and floodway map, or the flood insurance study report. A LOMR is issued only by FEMA.

**LETTER OF MAP REVISION – FILL (LOMR-F)** - means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway. A LOMR-F is issued only by FEMA.

**LEVEE** - a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

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

**LIMIT OF MODERATE WAVE ACTION (LiMWA)** – a boundary line shown on Flood Insurance Rate Maps (FIRM's) identifying areas at risk of moderate wave action during a weather event.

LOWEST FLOOR - the lowest floor of the lowest enclosed area with a habitable floor (including basement). An unfinished or flood resistant enclosure, usable solely for parking 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 applicable non-elevation design requirements of Section 60.3 of the National Flood Insurance Program regulations.

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

MEAN SEA LEVEL - for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD88) of 1988 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MODERATE TO LOW RISK AREA** – An area outside of the Special Flood Hazard Areas at moderate to minimal risk of flooding.

**MODULAR BUILDING** – a building that is prefabricated off-site, does not have a permanent chassis, and is installed on a permanent foundation.

**NEW CONSTRUCTION** - for the purposes 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 - 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 complete on or after the effective date of floodplain management regulations adopted by a community.

**NON-COMPLIANT** - A structure that does not meets all currently adopted development regulations.

**PERMIT** – a Development Permit or Repair Permit as required by these regulations. **PHYSICAL MAP REVISION (PMR)** – a PMR is FEMA's physical revision and republication of an effective FIRM, FBFM, or FIS report. PMR's are generally based on physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in modification of the existing regulatory floodway, the effective base flood elevations, or the Special Flood Hazard Area.

PRIMARY FRONTAL DUNE - a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

PROPER OPENINGS – flood vents or other openings installed in enclosures below the Base Flood Elevation or Base Flood Depth in Flood Zones A, A1-A30, AE, AO, AH, AR and AR Dual. All enclosures below the lowest elevated floor must be designed to

automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding must be provided. The bottom of all openings must be

no higher than 1 foot above the higher of the exterior or interior (adjacent) or floor immediately below the openings.

#### **RECREATIONAL VEHICLE** - a vehicle that 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 light duty truck; and
- 4. Designed primarily not as a permanent dwelling, but as temporary living quarters for recreation, camping or seasonal use.

**REGULATORY FLOODWAY** - 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.

**RESIDENTIAL BUILDING** – a non-commercial building designed for habitation by a person, family, or families.

**RIVERINE** - relating to, formed by, or resembling (including tributaries, stream, brook, etc.

**SAND DUNES** - naturally occurring accumulations of sand in ridges or mounds landward of the beach.

SHEET FLOW HAZARD – a type of flood hazard with flooding depths of 1 to 3 feet that occurs in areas of sloping land. The sheet flow hazard is represented by the zone designation AO on the FIRM.

SPECIAL FLOOD HAZARD AREA (SFHA) - The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.

**START OF CONSTRUCTION** - (other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. L. 97-348) date the permit was issued, provided the actual start of construction, repair reconstruction, placement or

other improvement was within 180 days of the permit. The actual start is the first placement of permanent construction of a structure on a site, such as pouring a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation, the placement of a manufactured home foundation, or the commencement of substantial repairs or improvements to an existing structure.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of the 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.

**STRUCTURE** - a walled and roofed building, including gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** - damage of any origin sustained by a structure whereby the cost to restore the structure to its pre-damaged condition would equal or exceed fifty (50%) percent of the Aransas County Appraisal District appraised value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENTS** - any reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the Aransas County Appraisal District appraised value of the structure before "start of construction" of the improvement. This includes structures that have incurred "substantial damage," regardless of the actual repair work performed.

TOPOGRAPHY - the description of the three dimensional shape of the land surface based upon elevation contours. For the purposes of determining if a development permit is required, an alteration of topography is considered to occur if fill placement is applied greater than 300 cubic yards (20 loads) or grading changes result in the modification to existing drainage and /or the increase in any elevation by six (6") inches or more.

Determination and clarifications to be provided by the County Floodplain Administer.

VARIANCE - a grant of relief to a person from requirements of this regulation when specific enforcement would result in unnecessary hardship. A variance, therefore, permits

construction or development in a manner otherwise prohibited by this regulation. (For full requirements, see 44 CFR 60.6 of the National Flood Insurance Program regulations) **VIOLATION** - a 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 the National Flood Insurance Program (NFIP) Section 60.3(b)(5), (c)(4), (d)(3), (e)(4) or (e)(5) is presumed to be in violation until at such time the documentation is provided.

UNINCORPORATED AREAS - those areas in Aransas County, Texas that are not within an incorporated city, town, village, or other municipality defined by statute.

WATER SURFACE ELEVATION - the height in relation to the North American Vertical Datum (NAVD88) of 1988 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ZONES – zones, also called flood zones, identified on the Flood Insurance Rate Map (FIRM).

#### **ARTICLE 3 - GENERAL PROVISIONS**

#### SECTION A - LAND TO WHICH THIS REGULATION APPLIES

These regulations shall apply to all unincorporated areas within the jurisdiction of Aransas County, Texas.

## SECTION B – ADOPTION OF FLOOD DATA AND BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD & FLOOD PRONE AREAS

The areas of special flood hazard identified by the Federal Emergency Management Agency are determined by a scientific and engineering report entitled "Flood Insurance Study of Aransas County, Texas Unincorporated Areas," dated December 20, 2019, with accompanying Flood Insurance Rate Maps (FIRM) and all subsequent amendments and revisions thereto are hereby adopted by reference and declared to be a part of these regulations. The FIS and attendant mapping may be supplemented by studies for other areas which allow implementation of this chapter, including but not limited to County hydrologic studies which have been approved by the County Engineer. The FIS and accompanying FIRM are on file at the Aransas County Road & Bridge Department, 1931 FM 2165, Rockport, Texas 78382.

#### SECTION C — ESTABLISHING PERMIT REQUIREMENT

A Development Permit or Repair Permit shall be required to ensure conformance with the provisions of these regulations for any development as defined in these regulations. No person(s), firm, or corporation shall erect, construct, enlarge, alter, repair, or improve any building, structure, or manufactured home without first obtaining an approved County permit from the Floodplain Administrator.

#### 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. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation and in addition shall pay all costs and expenses involved in the case. Each act of violation and each day of violation constitutes a separate offense. Nothing herein shall prevent Aransas County from taking such other lawful action as outlined in Article 5, Section F as is necessary to prevent or remedy any violation.

#### SECTION E - ABROGATION AND GREATER RESTRICTION

These provisions of this Order are not intended to repeal, abrogate, or impair any easements, covenants or deed restrictions. However, the provisions of this Order shall take precedence over any less restrictive conflicting law, order, ordinance, code, or official determination. All other regulations inconsistent with this Order are hereby repealed to the extent of the inconsistency only.

#### SECTION F - INTERPRETATION

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

#### SECTION G - WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by these regulations is reasonable for regulatory purposes and is based on scientific and engineering considerations. Greater floods can and will occur and flood heights may be increased by man-made or natural causes.

Neither the regulations established in this Order nor the issuance of permits hereunder nor other approvals granted pursuant to this Order are intended to imply that such uses will be free from flooding or flood damage. Likewise, flood zone designations and flood prone areas mapped by FEMA in the County's adopted Flood Insurance Rate Maps or County hydrologic studies do not imply that the land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the community or any official or employee therefore for any flood damage that result from reliance on these regulations or any administrative decision lawfully made there under.

#### ARTICLE 4 - PROVISIONS FOR FLOOD HAZARD REDUCTION

#### SECTION A - GENERAL STANDARDS

In UNINCORPORATED AREAS OF ARANSAS COUNTY the following provisions are required for all new construction and substantial improvements;

- All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent floatation, collapse or lateral movement of structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- 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, and air conditioning and other service facilities that are designed to prevent water entry to accumulation and/or located at a minimum of 18 (eighteen) inches above either the Base Flood Elevation level, Base Flood Depth level, or Highest Adjacent Grade as determined by the Floodplain Administrator. Outside of the 100-year floodplain, or in the areas assumed to be flood prone, elevation requirements may be determined using flood elevation studies approved by the County Engineer.
- All new and replacement water systems shall be designed or located to minimize or eliminate infiltration of flood system and discharge from the system into floodwaters.

- On-site sewage facilities shall be located or constructed to avoid impairment to them or contamination from them during flooding.
- No building permit will be issued until an Aransas County Environmental Health Department septic system permit has been obtained.
- 8. All recreational vehicles (RV's) not placed in an existing RV Park shall require a permit prior to being connected to utilities or otherwise occupied. Recreational vehicles stored on a homeowner's lot where the home is the primary residence are exempt from the permit requirement, subject to other orders or restrictions. These recreational vehicles must be unoccupied, not connected to neither water nor wastewater services, have a current motor vehicle license and inspection sticker, and be capable of highway use.

#### SECTION B - SUBDVISION REGULATIONS

- All subdivision proposals, including the placement of manufactured parks and subdivisions, shall be consistent with Article 1, Sections C and D of this Order.
- All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Articles 3 & 4 of this Order.
- 3. 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.
- All final subdivision plats will provide the boundary of the Special Flood Hazard
  Area, the floodway boundary, Base Flood Elevations, as well as future conditions
  flood elevations.
- A Stormwater Management Plan that includes base flood elevation data shall be generated for subdivision proposals and other proposed development including

manufactured home parks and subdivisions which are greater than fifty (50) lots or one (1) acre or propose an increase of impervious cover greater than twenty (20%) percent. The Stormwater Management Plan shall be reviewed by the County Engineer and Floodplain Administrator for compliance with the Development Guidelines & Stormwater Management Design Criteria for Aransas County.

- All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- 7. All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and/or facilities such as wastewater, gas, electric and water systems located and constructed to minimize or eliminate flood damage.
- The Aransas County Subdivision Regulations must also be followed in addition to these regulations. Copies may be obtained from the Aransas County Engineer's Office.

#### SECTION C - FLOODWAYS

A regulatory floodway is identified as a 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 water surface elevation more than a designated height.

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

Encroachments are prohibited, including fill, new construction, substantial
improvements and other development within the adopted regulatory floodway unless
it has been demonstrated through hydrologic and hydraulic analyses performed in
accordance with standard engineering practice that the proposed encroachment would

not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- If Article 4, Section B (1) above is satisfied, all new construction and substantial
  improvements shall comply with all applicable flood hazard reduction provisions of
  Article 4.
- 3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by Section 65.12.

#### SECTION D - SPECIFIC STANDARDS

The specific provisions applied to permit applications shall be determined by the flood zone in which the property is located as mapped and identified by FEMA in the Flood Insurance Rate Maps (FIRM's) and Flood Insurance Studies (FIS's) must recently adopted by the Aransas County Commissioners' Court. County hydrologic and flood elevation studies approved by the County Engineer may be used in Designated Flood Prone Areas (DFPA's) in determining elevation requirements outside of the 100-year floodplain.

For the purposes of permitting new construction and substantial improvement within unincorporated areas of Aransas County, the Floodplain Administrator shall determine whether the project is located in a *moderate to low risk area*, a *high risk area*, or a *coastal high risk area*. When the project is within multiple flood zones, the regulations for the more hazardous flood zone shall be applied.

#### 1. MODERATE TO LOW RISK AREAS\*

- a. **Zone X:** (Shaded): Areas of the 0.2% flood or 500-year flood, areas of the base (1% or 100-year) flood with average depths of less than 1.0 foot or with drainage areas less than one (1) square mile.
- b. **Zone X:** (Unshaded): Areas determined to be outside both the 1% (100-year) and 0.2% (500-year) floodplains.

\*Designated Flood Prone Areas (DFPA's) or Assumed Flood Prone Areas (AFPA's)

#### 2. HIGH RISK AREAS

- a. **Zone AE:** Areas of the base (1% or 100-year) flood where base flood elevations have been determined
- b. **Zones A, A99:** Areas of the base (1% or 100-year) flood where base flood elevations have not been determined.
- c. Zone AO: Areas of the base (1% or 100-year) flood where the depths are between1.0 and 3.0 feet; average depths of inundation are determined.
- d. **Zone AH**: Areas of the base (1% or 100-year) flood where the depths are between 1.0 and 3.0 feet; and base flood elevations are shown.

#### 3. COASTAL HIGH RISK AREAS

a. **Zone VE**: Areas of coastal flooding with velocity (wave action); base (1% or100-year) flood elevations determined.

- b. Zone V: Areas of coastal flooding with velocity (wave action); base (1% or 100-year) flood elevations not determined.
- c. Coastal Zone AE: Areas subject to 1% annual chance of flooding AND within the Limit to Moderate Wave Action (LiMWA) boundary as determined by FEMA (Can be found in Zones A, AE, A1-30, AH, and AO)

#### SECTION D - MODERATE TO LOW RISK AREAS

Areas of moderate to low risk flood hazard are depicted on the County's adopted Flood Insurance Rate Maps (FIRM's) as being outside of the 100-year floodplain. All areas located outside of Special Flood Hazard Areas established by FEMA for the NFIP are Designated Flood Prone Areas (DFPA's) or Assumed to be Flood Prone Areas (AFPA's). These flood prone areas include localized depressions that accumulate stormwater as identified by County hydrologic studies. These areas are associated with flooding where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, in flood prone areas outside of the 1% base flood (ZONE X AND SHADED ZONE X), the following standards shall apply to all new construction or substantial improvements:

1. RESIDENTIAL CONSTRUCTION – New construction and substantial improvements of any residential structure in Zone X and Shaded Zone X, or Assumed to be and Designated Flood Prone Areas (AFPA's & DFPA's) shall have the finished floor elevated eighteen (18") inches above the highest adjacent natural ground level, or when the drainage downstream from the prosed structure is intercepted by a roadway the lowest floor elevation shall be a minimum of eighteen (18") inches above the centerline of the roadway. In Moderate to Low Risk Flood Hazard Areas, topographical features of the property in relation to the new development or substantial improvement may be considered by the County Engineer and Floodplain Administrator in determining the final

elevation required.

- 2. NON-RESIDENTIAL CONSTRUCTION New construction and substantial improvements of any commercial, industrial or other non-residential structure in Zone X and Shaded Zone X shall either have the lowest floor elevated eighteen (18") inches above the water surface elevation during the one (1 %) percent storm event, as determined from County adopted flood maps or flood elevation studies, or elevated eighteen (18") inches above the highest adjacent grade of the property or the centerline of the road, or together with attendant utility and sanitary facilities, designed so that below the highest adjacent grade the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. In Moderate to Low Risk Flood Hazard Areas, topographical features of the property in relation to the new development or substantial improvement may be considered by the County Engineer and Floodplain Administrator in determining the final elevation required
- 3. **ENCLOSURES** Enclosures in Zone X and Shaded Zone X are not required to be elevated, utilize flood openings, nor break-away construction provided that the enclosure is used solely for storage, parking, or building access.
- 4. MANUFACTURED HOMES All new, substantially improved, or substantially damaged manufactured homes within Zone X and Shaded Zone X, whether on sites outside of a manufactured home park or subdivision, sites in a new manufactured home park or subdivision, sites in an expansion to an existing manufactured home park or subdivision, or sites in an existing manufactured home park or subdivision shall:
  - a. Be installed on a permanent foundation,
  - b. Be elevated so that the lowest floor of the manufactured home is a minimum of eighteen (18") inches above the Base Flood Elevation level,

and

c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind anchors.

#### 5. RECREATIONAL VEHICLES

- a. Temporary Recreational Vehicles (RV's)
  - i. Any recreational vehicle remaining at one location fewer than one hundred eighty 180 days must be fully licensed, registered, and roadworthy. A recreational vehicle is ready for highway use if it is on wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures.
  - ii. Any person who moves a recreational vehicle from a location in order to avoid having to elevate or anchor as required in these regulations must remove the recreational vehicle for a period in excess of 24 hours. If the vehicle is removed for a period consisting of 24 hours or less, then the permitting requirements will apply and the property owner will be required to comply with the requirements set forth above.
  - iii. All recreational vehicles shall be capable of evacuation under its own power or if dependent of external power, the vehicle proposed for external power shall be in running condition.
  - iv. Egress of recreational vehicles shall not be prevented by stored or fixed items such as stairs, porches, store rooms, etc.

#### b. Permanent Recreational Vehicle (RV)

i. Any vehicle that is being used as a residence or at one location in excess of one hundred eighty (180) consecutive days must be permitted, elevated 18" above the base flood elevation required and anchored in the same manner as required for manufactured homes as outline in Section C(4) above.

#### SECTION E - HIGH RISK AREAS

High Risk Areas have a 1% annual risk of flooding. Zones A, AE, A1-30, AO, AH 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. In flood prone areas identified as high risk Special Flood Hazard Areas (ZONES A, AE, A1-30, AO, AH), the following standards shall apply to all new construction or substantial improvements:

## 1. RESIDENTIAL CONSTRUCTION IN HIGH RISK SPECIAL FLOOD HAZARD AREAS:

- a. ZONES A, AE, A1-30: New construction and substantial improvements of any residential structure shall have the lowest floor elevated a minimum of eighteen (18") inches above the Base Flood Elevation.
- b. ZONES AO/AH: All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to eighteen (18") inches 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). Adequate drainage paths around structures on slopes shall be provided to guide flood waters around and away

from proposed structures.

c. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

### 2. NON- RESIDENTIAL CONSTRUCTION IN HIGH RISK SPECIAL FLOOD HAZARD AREAS:

- a. New construction and substantial improvements of any commercial, industrial or other non-residential structure in Zones A, AE, A1-30 shall either have the lowest floor (including basement) elevated a of eighteen (18") inches above the Base Flood Level or, together with attendant utility and sanitary facilities, designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- b. ZONES AO/AH: All new construction and substantial improvements of any commercial, industrial, or other non-residential structures have the lowest floor (including basement) elevated to eighteen (18") inches 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). Adequate drainage paths around structures on slopes shall be provided to guide flood waters around and away from proposed structures.
- c. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

#### 3. ENCLOSURES:

a. New construction and substantial improvements in Zones A, AE, A1-30, AO, AH with fully enclosed areas below Base Flood Elevation or Base Flood Depth shall

be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or exceed the following minimum requirements:

- a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of the enclosed area.
- b. The bottom of all openings shall be no higher than one (1) foot above grade.
- c. -Opening shall be equipped with screens, louvers, valves or-other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- b. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

#### 4. MANUFACTURED HOMES

All new, substantially improved, or substantially damaged manufactured homes within Zones A, AE, A1-30, AO, AH, whether on sites outside of a manufactured home park or subdivision, sites in a new manufactured home park or subdivision, sites in an expansion to an existing manufactured home park or subdivision, or sites in an existing manufactured home park shall:

- a. Be installed on a permanent foundation,
- b. Be elevated so that:

- i. the lowest floor of the manufactured home is a minimum of eighteen (18") inches above the Base Flood Elevation level, or
- ii. Be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36") inches in height above grade; and,
- c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind anchors.

#### 5. RECREATIONAL VEHICLES

- a. Temporary Recreational Vehicles (RV's)
  - a. Any recreational vehicle remaining at one location fewer than one hundred eighty 180 days must be fully licensed, registered, and roadworthy. A recreational vehicle is ready for highway use if it is on wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures.
  - b. Any person who moves a recreational vehicle from a location in order to avoid having to elevate or anchor as required in these regulations must remove the recreational vehicle for a period in excess of 24 hours. If the vehicle is removed for a period consisting of 24 hours or less, then the permitting requirements will apply and the property owner will be required to comply with the requirements set forth above.
  - c. All recreational vehicles shall be capable of evacuation under its own power or if dependent of external power, the vehicle proposed for external

power shall be in running condition.

d. Egress of recreational vehicles shall not be prevented by stored or fixed items such as stairs, porches, store rooms, etc.

#### b. Permanent Recreational Vehicle

a. Any vehicle that is being used as a residence or at one location in excess of one hundred eighty (180) consecutive days must be permitted, elevated 18" above the base flood elevation required and anchored in the same manner as required for manufactured homes as outline in Section 5(a) above.

#### SECTION F - COASTAL HIGH RISK AREAS

Located within the areas of Special Flood Hazard established in Article 3, Section B, are areas designated Coastal High Hazard Areas (Zones V1-30, VE, V, and Coastal AE Zones). These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash. Therefore, in addition to meeting all other provisions outlined in these regulations, the following provisions apply:

#### 1. GENERAL DEVELOPMENT REQUIREMENTS FOR COASTAL HIGH RISK AREAS

- a. The use of fill for structural support of buildings is prohibited.
- b. Man-made alterations of sand dunes and mangrove stands which would increase potential flooding damage is prohibited.
- c. All new construction shall be located landward of the reach of mean high tide.

- d. If breakaway walls are used, such enclosed space shall be used solely for parking of vehicles, building access or storage. Such spaces shall not be used for human habitation.
- e. All new construction and substantial improvements shall be elevated on pilings and columns so that:
  - i. the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above eighteen (18") inches above the base flood level;
  - ii. the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.
  - iii. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section.

### 2. RESIDENTIAL CONSTRUCTION IN HIGH RISK SPECIAL FLOOD HAZARD AREAS:

a. ZONES V, VE: New construction and substantial improvements of any residential structure shall have the lowest horizontal structural member of the lowest floor elevated a minimum of eighteen (18") inches above the Base Flood Elevation. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

b. COASTAL AE ZONE: New construction and substantial improvements of any residential structure shall have the lowest floor elevated a minimum of eighteen (18") inches above the Base Flood Elevation. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

### 3. NON- RESIDENTIAL CONSTRUCTION IN HIGH RISK SPECIAL FLOOD HAZARD AREAS:

- a. ZONES V, VE: New construction and substantial improvements of any commercial, industrial or other non-residential structure in Zones V/VE shall either have the lowest floor (including basement) elevated a of eighteen (18") inches above the horizontal structural member of the lowest floor, or together with attendant utility and sanitary facilities, designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.
- b. COASTAL AE ZONE: New construction and substantial improvements of any commercial, industrial or other non-residential structure in Coastal AE Zones shall either have the lowest floor (including basement) elevated a of eighteen (18") inches above the Base Flood Level or, together with attendant utility and sanitary facilities, designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer

or architect shall submit a certification to the Floodplain Administrator that the standards of this Section are satisfied.

#### 4. ENCLOSURES:

- a. ZONES V, VE: All new construction and substantial improvements in Zones V/VE with fully enclosed areas below the lowest floor may be allowed provided that the space the lowest floor either free of obstructions or constructed of no more than three hundred (300 SF) square feet with non-supporting breakaway walls, open wood lattice-work or inspect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10 LB/SF) and no more than twenty (20 LB/SF) pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
  - i. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood.
  - ii. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Maximum wind loading values to be used in this determination shall each have a one (1 %) percent chance of being equaled or exceeded in any given year (100-year recurrence interval).

If breakaway walls are used, such enclosed space shall be used solely for parking of vehicles, building access or storage. Such spaces shall not be used for human habitation.

## 5. MANUFACTURED HOMES

All new, substantially improved, or substantially damaged manufactured homes within Zones V, VE, and Coastal AE Zones, whether on sites outside of a manufactured home park or subdivision, sites in a new manufactured home park or subdivision, sites in an expansion to an existing manufactured home park or subdivision, or sites in an existing manufactured home park shall:

- a. Be installed on a permanent foundation;
- b. Be elevated so that the lowest floor of the manufactured home is at or above eighteen (18") inches above the Base Flood Elevation;
- c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; and,
- d. Be supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36") inches in height above grade.

This requirement is in addition to applicable State and local anchoring requirements for resisting wind anchors.

## 6. RECREATIONAL VEHICLES

a. Temporary Recreational Vehicles (RV's)

- i. Any recreational vehicle remaining at one location fewer than one hundred eighty 180 days must be fully licensed, registered, and roadworthy. A recreational vehicle is ready for highway use if it is on wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures.
- ii. Any person who moves a recreational vehicle from a location in order to avoid having to elevate or anchor as required in these regulations must remove the recreational vehicle for a period in excess of 24 hours. If the vehicle is removed for a period consisting of 24 hours or less, then the permitting requirements will apply and the property owner will be required to comply with the requirements set forth above.
- iii. All recreational vehicles shall be capable of evacuation under its own power or if dependent of external power, the vehicle proposed for external power shall be in running condition.
- iv. Egress of recreational vehicles shall not be prevented by stored or fixed items such as stairs, porches, store rooms, etc.

#### b. Permanent Recreational Vehicle

i. Any vehicle that is being used as a residence or at one location in excess of one hundred eighty (180) consecutive days must be permitted, elevated 18" above the base flood elevation required and anchored in the same manner as required for manufactured homes as outline in Section 6(a) above.

# **ARTICLE 5 - ADMINISTRATION**

#### SECTION A - SCOPE

Provisions of this regulation shall apply to all new construction or development, proposed subdivisions and to the construction, alteration, repair, use, location, or maintenance of every building or structure or any appurtenances connected to or attached to such buildings or structures, within all unincorporated areas within the jurisdiction of Aransas County, Texas.

#### SECTION B - DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Commissioners' Court shall appoint a Floodplain Administrator to administer and implement the provisions of this Order and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

## SECTION C - DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator shall be responsible for maintaining the Aransas County Floodplain Management & Watershed Protection Order in accordance with the National Flood Insurance Program requirements outlined in Title 44 CFR 60.3(d-e). The duties and responsibilities of the Floodplain Administrator shall include but not limited to the following:

- Maintain all records pertaining to the provisions of these regulations and ensure those records are open and accessible to the public.
- Review permit application to determine whether proposed building site or location for the
  placement of a manufactured home will be reasonably safe from flooding for new
  construction and substantial improvements in flood-prone areas.

- 3. Review, approve or deny all applications for Development or Repair Permits required by adoption of these regulations to ensure that structures are:
  - a. Adequately anchored to prevent flotation, collapse, or lateral movement
  - b. Built and maintained using flood-resistant materials
  - c. Built and maintained using construction methods that minimize flood damage
  - d. Built and maintained so that utilities and service equipment is located properly so flood waters could not enter and accumulate during flooding
- 4. Review permits for proposed development to assure 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 hazard (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 Agencies, specifically the Texas Water Development Board (TWBD) and 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. Notify FEMA within 6 (six) months of changes in the base flood elevation and submit any new technical or scientific data so insurance and floodplain management can be based on current data.
- 8. Assure that the flood carrying capacity within the altered or relocated watercourse is maintained.

- 9. When base flood elevation data and floodway data has not been provided the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from the Federal, State or other source in order to administer the provisions of Article 5.
- 10. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A and AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development 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.
- 11. 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 increase the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA.

## SECTION D - PERMIT PROCEDURES

Development Permits and Repair Permits in unincorporated Aransas County shall be issued in accordance with the following procedures. Permit applications and required documentation shall be filed with the Floodplain Administrator.

## 1. PERMIT REQUIRED

A Development Permit shall be required prior to the construction, placement, or erection of any building or structure. A Repair Permit shall be required prior to any substantial improvements to any building or structure. Ordinary and minor repairs may be made with

the approval of the Floodplain Administrator without a permit provided that such repairs shall not violate any of the provisions of this regulation.

## 2. PERMIT APPLICATION REQUIRED

Any person(s), firm, or corporation applying for a Development Permit or Repair Permit in Aransas County must submit to the Floodplain Administrator completed and signed permit application.

# 3. SUPPORTING DOCUMENTATION REQUIRED – DRAWINGS & DESIGN SPECIFICATIONS

All required documentation must be submitted with the application to be accepted by the Floodplain Administrator for review and processing. The Floodplain Administrator shall require documentation based on the type of work and the floodzone designation of the property subject to the proposed work. These documents include, but are not limited to:

- a. An elevation hub certificate shall be required:
  - i. If the proposed work is within Special Flood Hazard Areas in which elevation requirements are measured in relation to mean sea level; or
  - ii. If the proposed work is outside Special Flood Hazard Areas and the size, shape, or grade of the property prevent the Floodplain Administrator from adequately determining the benchmark on which elevation requirements can be measured and inspected for compliance.
- b. Verification of adequate utility services;
- c. Copies of the survey and plat drawing;

- d. Specifications and drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work. Such drawings and specifications shall contain information in the form of notes or otherwise as to the quality of materials, where quality is essential to conformity with this regulation;
- e. The Floodplain Administrator may require details, computations, stress diagrams and such other data necessary to describe the construction and basis of calculations and they shall bear the signature of the person responsible for the design.
- f. In Special Flood Hazard Areas, a registered professional engineer or architect shall develop and review structural designs, specifications and plans, and shall certify that the design and methods of construction meet the elevation and anchoring requirements outlined in this Order.
  - i. All specifications and accompanying data shall bear the name and address of the designer.
  - ii. Any other information as may be reasonably required by the Floodplain Administrator to ensure the project is in compliance with this Order.

## 4. REVIEW OF PERMIT APPLICATION, DRAWINGS, & SPECIFICATIONS

The Floodplain Administrator shall review the submitted application and accompanying documentation for compliance with this Order and other pertinent regulations. If the application and supporting documents are in compliance with the currently adopted regulations, the Floodplain Administrator shall issue a permit no later than the 30<sup>th</sup> day after the date the completed application is received.

Existing buildings shall be evaluated during the permit application review by the
 Floodplain Administrator to determine whether the structure is compliant or non-

compliant with the Aransas County Floodplain Management & Watershed Protection Order.

b. If the existing structure is found to be non-compliant, the Floodplain Administrator shall determine if the proposed alterations, improvements, or repairs constitute substantial damage or substantial improvement.

#### 5. SUBSTANTIAL DAMAGE & SUBSTANTIAL IMPROVEMENT

Any alterations, improvements, or repairs costing fifty (50%) percent or more of the Aransas County Appraisal District appraised value of the building are made to an existing building, such building shall be considered substantially damaged or substantially improved respectively and be made to conform to the requirements of these regulations for new buildings. Other appraisals prepared by a state-licensed and certified appraiser may be accepted by the Floodplain Administrator for consideration in determining the valuation of a building.

## 6. REVIEW OF APPLICATION, PLANS, & OTHER DOCUMENTS

- a. The Floodplain Administrator shall examine or cause to be examined for permit and the drawings and computations filed with the Development Permit or Repair permit applications and shall determine whether the construction indicated and described is in accordance with the requirements of this regulation and all other pertinent laws or regulations.
- b. No permit shall be issued in Special Flood Hazard Areas unless and until certification is received from a registered professional engineer or architect that the proposed structure shall meet all flood proofing criteria called for herein.
- c. The Floodplain Administrator may accept a sworn affidavit from a registered architect or engineer stating that plans submitted conform to the laws as to type of

construction, general arrangement, and if accompanied by drawings showing the design conform to the requirements of these regulations as to strength, stresses, strains, loads, stability and elevation, he may without examination or inspection, accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the Floodplain Administrator upon the completion of the structure a certification that the structure has been erected in accordance with these regulations. The architect or engineer shall assume full responsibility for the compliance with the provisions of this regulation and/or other pertinent laws or regulations.

d. The Floodplain Administrator may accept of drawings, designs, or specifications that meet the prescriptive design criteria provided by FEMA.

#### 7. PERMIT APPROVAL OR DENIAL

- a. If the application for a permit and the drawings filed therewith describe work which does not conform to the requirements of this regulation and other pertinent laws and regulations, the Floodplain Administrator shall not issue a permit, but shall return the drawings to the applicant with his refusal to issue such permit. Such refusal to issue such permit shall be in writing and shall identify the reason(s) for denying the permit and those regulations upon which the permit has been denied.
- 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:
  - i. The danger to life and property due to flooding or erosion damage;
  - ii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iii. The danger that materials may be swept onto other lands to the injury of others;

- The compatibility of the proposed use with existing and anticipated development;
- v. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- vi. 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;
- vii. 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;
- viii. The necessity to the facility of a waterfront location, where applicable;
- ix. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- c. Issuance of a floodplain permit does not relieve the applicant of the responsibility of obtaining any other required federal, state of local permits.
- d. Upon issuance of a Development Permit, the recipient shall be required to sign the permit, indicating that the recipient accepts the permit with any specific conditions and that he will construct the development in strict conformance with the approved plans and conditions attached.
- e. Upon approval of permit, a copy of permit must be posted on site at all times.

#### SECTION E - INSPECTIONS

 After a permit has been approved by the Floodplain Administrator, the permit issued shall be construed to be a license to proceed with work for one (1) year and shall not be construed as authority to violate, cancel, alter or set aside any of the provisions of these regulations, nor shall such issuance of a permit prevent the Floodplain Administrator from thereafter requiring a correction of errors in plans or if issued the permit shall become invalid, unless the work authorized by it shall have been commenced; provided that, for cause, one or more extensions of time, for periods not exceeding one hundred eighty (180) days each, may be allowed by the Floodplain Administrator.

- 2. Whenever a permit is issued in reliance upon an affidavit, as provided in Section 6, Subsection (b) above, or whenever the work to be covered by a permit involves construction under conditions which, in the opinion of the Floodplain Administrator, are hazardous or complex, the Floodplain Administrator may require that the architect or who signed the affidavit or is responsible for the drawings and computations supervise the work and make assurance that the work was completed in accordance with the approved plans and specifications. In the event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are approved by the Floodplain Administrator.
- 3. As a part of its routine duties, the Department may issue stop-work orders for activities being conducted pursuant to a Development Permit issued by the County, if a representative of the Department has confirmed that the activities violate or are in danger of violating a Development Authorization, a Development Agreement, these Regulations, or the requirements of other applicable entities with jurisdiction over the project that have been incorporated by reference. Orders issued by the Department under this authority may be provided verbally, but must be confirmed by Written Notice, provided to the Permittee and the Owner of the Subject Property. Stop -work orders may be appealed to the Commissioners' Court based on a written request of the Permittee or the Owner of the Subject Property. Violations that result in stop work orders are subject to any enforcement action authorized under applicable law, including civil or criminal penalties or fines.
- 4. For residential structures, upon placement of the lowest floor or placement of form boards, the permit holder should contact the Floodplain Administrator to measure the

elevation of said form boards of lowest floor in relation to mean sea level or the highest adjacent grade depending on the flood zone designation of the permitted project; or, the permit holder shall provide the Floodplain Administrator with an Elevation Certificate measuring the final elevation of said form boards or lowest floor.

- 5. For non-residential structures, upon placement of the lowest floor, placement of form boards, or installation of flood barriers, the permit holder should contact the Floodplain Administrator to measure the elevation of said form boards of lowest floor in relation to mean sea level or the highest adjacent grade depending on the flood zone designation of the permitted project; or, the permit holder shall provide the Floodplain Administrator with an Elevation Certificate measuring the final elevation of said form boards or lowest floor.
- 6. Upon completion of any structure permitted within Special Flood Hazard Areas, or the 100-year floodplain, it shall be the duty of the permit holder to submit to the Floodplain Administrator a Final Elevation Certificate. Said certification shall be prepared by or under the direct of a Texas registered land surveyor Texas licensed professional engineer who is authorized to certify such and certified by same.
- 7. The Floodplain Administrator shall review the Final Elevation Certificate, or lowest floor elevation and flood proofing certificate. Should these documents be found not in conformance with the requirements of these rules, the permit holder shall immediately cease further work, and shall correct any deficiencies. Failure of the permit holder to submit the surveyed lowest floor elevation and flood proofing certificate, and failure to correct said deficiencies required hereby, shall be the cause to issue a stop-work order for the project.
- 8. Once a Final Elevation Certificate has been received, reviewed, and found to be in conformance with the requirements of these rules, the Floodplain Administrator shall provide written notice to the appropriate utility services that a property owner may

connect services once they have complied with County regulations and a certificate of approval has been issued.

#### SECTION F - ENFORCEMENT & COMPLIANCE

#### 1. PURPOSE & GOALS

The purpose of this section is to identify processes and methods to achieve compliance with laws and regulations adopted by Aransas County to promote and protect the general public health, safety, and environment of Aransas County residents. The goals of Aransas County are to emphasize floodplain code compliance primarily through education and prevention, secondarily through voluntary compliance, and lastly through civil and criminal remedies as needed.

#### 2. IN GENERAL

- a. Stop-work orders will be issued upon discovering a violation in progress.
- b. The Floodplain Administrator may revoke or suspend a permit or approval issued under the provisions of these regulations in cases where there has been false statement or misrepresentation as to a material fact in the application or upon which the permit or approval is based.
- c. Any person, firm, corporation or agent who violates a provision of these regulations, fails to comply with the requirements of the permit, or erects, constructs or alters any building or structure in violation with these regulations may be found guilty of Contempt of Commissioners' Court of Aransas County. Each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any such provision of this regulation is committed, or continued and upon conviction of any such violation such person shall be punished within the limits as provided by state law.

- d. Commissioners' Court may punish contempt by fine or imprisonment in accordance with the provisions of Section 81 .023 of the Texas Local Government Code, as amended. Any person securing a permit under these regulations does so on the representation to the Commissioners' court that he will comply with the terms of the permit and with these requirements and other County Regulations. Commissioners' Court has the power to enforce its Orders by civil contempt for violations of such representations. If the Commissioners' Court finds the defendant to be guilty of contempt, it will enter such Orders consistent with general law as it deems appropriate to punish the person guilty of contempt, and will enter such other and future orders enforceable by civil and criminal contempt, and consistent with its authority under general laws, as Commissioners' Court deems necessary to enforce and protect its jurisdiction over the matter.
- e. It shall be unlawful to use, occupy any building, development, or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Development Permit has been issued by the Floodplain Administrator stating that the use of the development conforms to the requirements of this Order.
- f. If there are any changes in the footprint of the developed area, the number of bedrooms or the amount of square feet of the structure, construction shall be stopped until the changes from the original plan have been approved.
- g. The Floodplain Administrator, or his duly authorized representative, may enter any building, structure or premise to perform any duties imposed upon him by these regulations.
- h. The Floodplain Administrator may determine non-compliance with diversion or impoundment of natural flow of surface water and referral to the District

Attorney's office for enforcement when necessary.

i. The Floodplain Administrator may administer and enforce Local Government Code 240.901 and rules adopted by the Aransas County Commissioners' Court as it relates to the connection of utility services and referral to the District Attorney's Office for enforcement when necessary.

#### 3. GUIDELINES FOR RESPONDING TO POTENTIAL VIOLATIONS:

It is the County's policy to investigate and to attempt to resolve all potential code violations. At the discretion of the Floodplain Administrator, potential violations may be processed in any order that maximizes the efficiency of enforcement. However, at times when not all potential code violations can be investigated due to lack of resources or otherwise, the most serious potential violations should be addressed before less serious potential violations. The following guidelines should be applied by the Floodplain Administrator in prioritizing responses to potential violations:

- a. Violations that present an imminent threat to public health or safety.
- b. Violations that present a high risk of damage to public resources and/or facilities.
- c. Violations that may result in damage to real or personal property.
- d. Violations that do not fit within any of the previous categories, and have only minor public impacts. These potential violations should be processed in the order in which they are received, and as resources allow.

As a guideline and if resources allow, all potential violations should be investigated within 60 calendar days and enforcement actions should be initiated within 120 calendar days of coming to the Department's attention. Failure to meet these guideline response dates does not in any way prevent the Director from investigating and enforcing potential violations outside of these response dates.

## 4. INVESTIGATING POTENTIAL VIOLATIONS:

The Floodplain Administrator may determine, based on information derived from such sources as field observations, the statements of witnesses, relevant documents, and available data systems, whether a violation of this Order has occurred or is occurring. If the Floodplain Administrator determines the violation to be valid, they shall:

- a. Identify the person responsible for code compliance as defined in this order.
- b. Identify the specific provision that has been or is being violated.
- c. Determine whether there are reasonable grounds to believe that the acts or omissions that constitute the violation did occur or are occurring.

## 5. ENFORCING COMPLIANCE:

When a code violation has been established, the Floodplain Administrator may use the following guidelines in enforcing compliance with the Aransas County Floodplain Management & Watershed Protection Order:

- a. The Floodplain Administrator may issue a written warning to the person determined to be responsible for code compliance. Warnings may be mailed by regular mail, hand-delivered in person, or posted on the subject property. The warning shall inform the person determined to be responsible for the violation:
  - i. What violation has been identified;
  - ii. The specific provision(s) that have been or are being violated;
  - iii. The direction to either correct the violation or enter into a voluntary compliance agreement as provided by this Order.
- b. Whenever the Floodplain Administrator determines that a code violation has occurred or is occurring, the person responsible for code compliance as provided in this Order may enter into a voluntary compliance agreement:

- i. A voluntary compliance agreement may be entered into at any time before the County files a civil suit or civil penalty against the person or entity responsible for the violation.
- ii. The voluntary compliance agreement is a commitment by the person responsible for code compliance to perform specific corrective actions, which may consist of a combination of remediation of the site and mitigating the impacts of the violation.
- iii. By entering into a voluntary compliance agreement, the person responsible for code compliance admits that the conditions described in the voluntary compliance agreement exist and constitute a civil code violation, and acknowledges that, if the Floodplain Administrator determines that the terms of the voluntary compliance agreement have not been met, they may be liable for any remedy authorized by this Order.
- iv. The Floodplain Administrator may grant in writing an extension of the time limit for compliance or agree to a modification of the required corrective action if the person responsible for code compliance makes a written request, which describes in detail the circumstances that render full or timely compliance under the original conditions unattainable, and shows due diligence or substantial progress in correcting the violation.
- v. The voluntary compliance agreement is not a settlement agreement.
- c. Where construction is commenced before a permit is obtained, the person or entity responsible for obtaining the permit shall be first notified and given the opportunity to remedy the violation. Should the same person or entity commence with construction before a permit is obtained for a second time or more, the permit application fee shall be doubled.

- d. If a person has violated, is violating or is threatening to violate these regulations in any manner, the County may institute a civil suit in the appropriate court for injunctive relief to restrain the person or entity from continuing the violation or threat of violation, including, but not limited to an order directing the person or entity to remove illegal improvements and restore pre-existing conditions. In addition, a person or entity who violates these regulations is subject to a civil penalty of not more than \$500.00 for each act of violation and for each day of violation.
- e. The County may file against any parcel of land a notice in the real property records identifying any condition on the property that the Floodplain administrator determines violate the rules adopted by these regulations.
- f. No person, firm or corporation shall continue such development if the permit has been revoked or suspended until the permit is reinstated or a new permit is issued.

## 8. LIMITATION

- a. The Floodplain Administrator shall approve, approve with conditions, or disapprove an application for a building permit with plans as filed or amended not later than the 30th day after the date the completed application is received.
- b. Should an applicant submit an application without all required documents the Floodplain Administrator shall notify the applicant in writing which documents are required no later than the 30<sup>th</sup> day after the application has been submitted.
- c. An application for a development permit shall be deemed to have been abandoned six (6) months after the date of filing, unless before then a permit shall have been issued; provided that, for cause, one or more extensions of time for periods of not

exceeding ninety (90) days each shall be allowed by the Floodplain Administrator.

## SECTION G - FEES

- No permit shall be issued until the fees adopted by the Aransas County Commissioners'
  Court have been paid, nor shall amendment to a permit be approved until the additional fee if
  any due to an increase in the estimated cost of the building structure, has been paid.
- If a person commences any work on a building or structure before obtaining the necessary permit from the applicable governing body, he shall be subject to the penalty prescribed herein.
- The Floodplain Administrator shall keep a permanent and accurate accounting of all permit
  fees and other monies collected, the name of all persons whose account the same was paid,
  the date and amount thereof.
- 4. On all buildings, developments, structures or alterations requiring a permit, as set forth in these regulations; fees shall be paid prior to the issuance of the approved permit.
- 5. The current applicable fee schedule may be obtained at the Floodplain Administrator's office or on the County's web site.

#### SECTION I - VARIANCES

## 1. STATEMENT REGARDING VARIANCES

FEMA regulations require that the Floodplain Administrator maintain a record of all variance actions, including justification for their issuance, and to report such variances either annually or biennially to the Federal Insurance Administrator.

The Federal Insurance Administrator may review the County's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, the Federal Insurance Administrator may take appropriate action pursuant to 44 C.F.R. section 59.24(b), including placing the County on probation status and charging additional premiums for policies sold or renewed during the period of probation.

Because the imprudent granting of variances can jeopardize the eligibility of Aransas County property owners to purchase flood insurance through the National Flood Insurance Program, each application for a variance will be carefully scrutinized, and only rarely will the Commissioners Court grant a variance.

#### 2. CRITERIA FOR GRANTING VARIANCES

- a. The issuance of a variance is for floodplain management purposes only. While the granting of variances generally is limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- b. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result. Variances shall not be granted if they would result in injury to the safety or health of an entire community or neighborhood or any considerable number of persons or if it would obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.
- c. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of Subsections (d), (e), (f), (g), and (h), (i), and (j) of this section.

- d. Variances shall only be issued upon:
  - i. a showing of good and sufficient cause,
  - ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- e. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- f. The County shall notify the applicant in writing over the signature of the Floodplain Administrator that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in Subsection (g) of this section.
- g. The Floodplain Administrator shall (1) maintain a record of all variance actions, including justification for their issuance, and (2) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.
- h. Variances may be issued by the Floodplain Administrator for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (1) the criteria of Subsections (b) through (e) of this section are met, and (2) 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.

- i. Mere economic or financial hardship alone does not constitute an exceptional hardship that justifies the granting of a variance. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise does not constitute an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- j. A floodway encroachment that increases the level of the design flood may be considered for a variance only if the applicant has applied for a conditional Flood Insurance Rate Map revision and has received the approval of the Federal Emergency Management Agency.

#### 3. VARIANCE PROCEDURE

- a. Any applicant for a permit may apply for a variance from the requirements of this chapter. A variance may be sought only on the basis that the imposition of the requirements of this chapter for the issuance of a permit to the applicant constitutes an exceptional hardship. Variances shall not be granted for development within any floodway if the development cannot meet the requirements of this Order.
- b. An applicant may file a request for variance at any time. However, no variance may be granted after an applicant has complied with the provisions of this chapter and a permit has been issued. An applicant shall file the application for a variance on a written form to be supplied by the Floodplain Administrator, and shall specify in connection therewith:
  - i. The particular requirement from which a variance is sought;
  - ii. The nature of the hardship presented by the imposition of the requirements;
  - iii. The proposed alternative method or procedure to be utilized in lieu of the required method, practice or procedure that is proposed;

- iv. The effect of the proposed construction on flood levels within the County;
- v. The estimated cost in dollars of complying with the requirement;
- vi. The estimated cost in dollars of construction by the proposed alternative method of procedure;
- vii. The size, in acres, of the land area or the number of lots involved in the permit application; and
- viii. The existence of lots contiguous to or surrounding the land area which are located below the base flood level.
- c. In addition, the applicant shall file a verified acknowledgment that:
  - The granting of a variance for construction below the flood level will result in increased flood insurance rates commensurate with the increased risk resulting from the reduced lowest floor elevation; and
  - ii. Construction below the base flood level increases risks to life and property to the applicant and the residents of this County and the surrounding area.

#### 4. REVIEW BY COMMISSIONERS' COURT OF VARIANCE APPLICATION

- a. The Floodplain Administrator shall receive, and transmit to the Commissioners Court, all applications for variances. The Commissioners Court shall determine whether a variance will be granted. The Commissioners Court shall hear and render judgment on an application for a variance 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 chapter. The Commissioners Court may consider the granting of a variance under the following circumstances:
  - i. The application is for the reconstruction, rehabilitation, or restoration of an historic structure and the reconstruction, rehabilitation, or restoration of the structure will not preclude the structure's continued designation as an historic

- structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- ii. The application is for improvement of an existing structure that is required to correct an existing violation of a state or local health, sanitary or safety code specification that has been identified by the neighborhood protection official and that is the minimum necessary to ensure safe living conditions.
- iii. The application is for a development for which the Floodplain Administrator finds that the granting of the variance is consistent with the procedures and standards established for the granting of variances. As the lot size increases, the burden on the applicant to provide a technical justification in favor of a variance under the facts of the case shall increase.
- iv. The application is for an addition, new construction of, or for substantial improvements to, a structure necessary for the conduct of a functionally dependent use provided that:
  - 1. The applicable requirements of Article 5, Section I, Subsections (3) & (4) are met;
  - 2. The structure or other development will be protected by methods designed to minimize flood damage during the base flood; and
  - 3. The structure will create no additional threats to public safety.
- v. The variance is essentially an appeal from the application of a special flood hazard area or base flood elevation determination or both being administered on the basis of supplemental data pursuant Article 3, Section B of this Order and the applicant demonstrates, with the concurrence of the agency then responsible for the study data, that the determination is scientifically or technically incorrect. The variance shall be limited to approval, with or without conditions, or denial of the permit, plat or other approval that was denied and shall not

constitute a change in the study data.

- b. The Commissioners Court shall deny variances to disaggregated lots of proposed larger developments or subdivisions or structures when that larger development has been the subject of or included within a permit application that has been previously disapproved by the Floodplain Administrator.
- c. In addition, in order to grant a variance, the Commissioners Court must affirmatively find that:
  - i. The imposition of the requirements of this chapter constitutes an exceptional hardship on the applicant;
  - ii. No feasible method or procedure is currently available to comply with the requirement; and
  - iii. The imposition of the requirements of this chapter to the particular circumstances would be unjustified in light of a good and sufficient cause which can be demonstrated to the Commissioners Court.
- d. In granting a variance, the Commissioners Court must find that the variance, if allowed, will not have the effect of:
  - i. Increasing flood level height due to impedance of the stream of channel flow;
  - ii. Introducing or increasing any threat to public safety;
  - iii. Creating a nuisance which unreasonably interferes with the use of adjacent property;
  - iv. Causing a fraud to be worked upon the public or any individual member of the public;
  - v. Causing extraordinary public expense for any reason; and;
  - vi. Creating conflict with any provisions of the Aransas County Orders or with any provisions of a state or federal regulation other than the applicable requirements

of this Order.

- e. The Commissioners Court, in granting a variance, shall grant only the minimum variance necessary to afford relief from the complained of hardship.
- f. A notice of variance shall be addressed to the applicant, and shall be signed by the County Judge, or in the County Judge's absence, the County Executive, and shall state:
  - i. The issuance of a variance to construct a structure below the base flood level may result in increased premium rates for flood insurance commensurate with the increased risk resulting from the reduced lowest floor elevation; and,
  - ii. The construction under a variance of any structure below the base flood level may increase risks to life and property to the applicant and the residents of this County and the surrounding area.
- g. Upon receipt of the notice of variance, the applicant shall file a copy of that notice in the permanent deed records of the county or counties in which the property is located.
- h. Upon the receipt of a copy of the notice of variance certified by the county clerk of the county in which the property is located, the Floodplain Administrator shall issue a permit complying with all provisions of this chapter with the exception of the variance granted.
- i. The Floodplain Administrator shall maintain a permanent public record of all notices of variance and the variances granted. The written justification for the granting of each variance shall be included in such records.
- j. Each variance is unique and applies only to the property for which it was granted.

- k. Modification to the development scope or detail in an approved variance operates to void the variance.
- 1. The denial of a variance by the Commissioners Court shall be final and is not subject to reconsideration.

## ARTICLE 6 - MISCELLANEOUS

#### **SECTION A - UTILITIES**

Any structure or other development may not be connected with water, sewer, electricity or gas utility service if not in compliance with these regulations.

#### SECTION B - OTHER REGULATIONS

In addition to these regulations, any development must also comply with the additional regulations when applicable:

- SEPTIC PERMIT Septic permits are required through the Aransas County
   Environmental Health Department for all properties that do not have access to a public wastewater system.
- 2. SITE DEVELOPMENT AND CONSTRUCTION GUIDELINES A site-specific stormwater management plan is required when a site development project involves a disturbance of over 1-acre of land or the construction of more than 20% impervious cover. The requirements of a stormwater management plan are detailed in the Aransas County Site Development and Construction Guidelines.
- REGIONAL STORMWATER MANAGEMENT PLAN The Aransas County
  Regional Stormwater Management Plan outlines the County's current and future drainage
  conveyance systems. All new development shall incorporate this stormwater plan into
  their proposed development, as is applicable.
- SUBDIVISION REGULATIONS The subdivision of property shall comply with the current Aransas County Subdivision Regulation.

 STATE AND FEDERAL CODES - In addition to this order, they must comply with all State and Federal Codes, including but not limited to, Texas Windstorm Insurance Association (TWIA).

6. U.S.A.C.E. APPROVAL - No alteration, diversion, encroachment or enlargement shall be made to any bayou, lake, creek, natural drainage ditch or waterway without specific written authorization from the County Floodplain Administrator and the U.S. Army Corps of Engineers, Galveston District, if applicable.

7. NOTICE OF CIVIL LIABILITY - No person may divert or impound the natural flow of surface waters or permit a diversion or impounding to continue in a manner that damages the property of another by the overflow of water diverted or impounded. A person whose property is injured by an overflow of water caused by an unlawful diversion, impounding, or permitted development may recover damages occasioned by the overflow through civil court as allowed by State law.

## SECTION C - SEVERABILITY

It is the intention of these regulations that the section, paragraphs, sentences, clauses and phrases of these regulations are severable; and if any section, paragraph, sentence, clause or phrase of these regulations shall be declared void, ineffective or unconstitutional by a valid judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases hereof, since the same would have been enacted by this Court without the incorporation herein of any such unconstitutional section, paragraph, sentence, clauses or phrase.

## SECTION D - CERTIFICATION OF ADOPTION

APPROVED BY: COMMISSIONERS' COURT OF ARANSAS COUNTY, TEXAS

DATE: December 9, 2019
ORDER BECOMES EFFECTIVE: December 9, 2019

I, the undersigned, C. H. "Burt" Mills, do hereby certify that the above is a true and correct copy of an order duly adopted by the Commissioners' Court of Aransas County, Texas, at a regular meeting duly convened on <u>December 9, 2019</u>

C.H. "Burt" Mills, County Judge