

THE STATE OF TEXAS                   §

COUNTY OF FORT BEND               §

**INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF FORT BEND  
AND FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 35, OF FORT  
BEND COUNTY, TEXAS**

This Interlocal Agreement, hereinafter referred to as the “Agreement”, is entered into between the County of Fort Bend, a body corporate and politic acting herein by and through its Commissioners Court, hereinafter referred to as “County”, and Fort Bend County Municipal District No. 35, of Fort Bend County, Texas, hereinafter referred to as “District”.

WHEREAS, District desires that the area within the boundaries of the District comply with the requirements of the National Flood Insurance Program; and

WHEREAS, County, has appointed the County Engineer as Floodplain Coordinator to monitor the National Flood Insurance Program in certain unincorporated areas of the County; and

WHEREAS, District desires that County administer the Flood Damage Prevention Regulations for the area within the boundaries of the District; and

WHEREAS, District and County find the unification of floodplain administration would simplify the permitting process for the District and provide for consistency of administration of local, state and federal floodplain regulations throughout the County; and

WHEREAS, District agrees to adopt Flood Damage Prevention Regulations consistent with and substantially the same as those adopted by County, which are necessary to comply with the National Flood Insurance Program; and

WHEREAS, this Agreement is made pursuant to and under the provisions of Chapter 791, Texas Government Code.

NOW THEREFORE, the County and District mutually agree as follows:


1. The District shall adopt Flood Damage Prevention Order ("Regulations") consistent with and substantially the same as the Regulations adopted by the County. Further, District shall update its Regulations from time to time, consistent with any updates to the Regulations of the County, within a reasonable time of the District's receipt from the County of a form of Addendum to the District's Regulations. The District shall also take any and all actions necessary to remain in compliance with the National Flood Insurance Program during the entire term of this Agreement.
2. The Floodplain Administrator of District, under those certain Regulations adopted by the District (a copy of which is attached hereto as Exhibit "A") hereby designates as its agent to perform all duties of the Floodplain Administrator under said Regulations, the County Engineer or his successor as the County's Floodplain Coordinator.
3. The County Engineer will perform all duties of the Floodplain Administrator and the Floodplain Coordinator as provided in said Regulations, but the County Engineer shall not be considered during the term of this Agreement as an employee of District.
4. Any and all fees for inspections and/or licensing performed by the County relative to the Regulations shall be paid directly to the County, and, no funds received by the County in payment for fees for such inspections and/or licensing shall be paid to District. All such funds shall be retained to pay for services rendered by the County. The compensation for such services shall be paid by the licensee/inspectee, and the District shall have no obligation to pay the County for such services.
5. District shall, within a reasonable time of its receipt thereof, forward all correspondences relating to the subject matter of the Regulations and shall promptly refer all inquiries to the County with attention to the County Engineer. District, by and through its governing body, shall perform all duties required of District and/or the governing body under the Regulations, which shall not be interpreted as including any duties transferred hereunder.
6. To the extent permitted by law, District shall indemnify and hold harmless the County from any and all liability for damages, costs, or expenses, including attorney's fees, arising out of any inspections, permitting or licensing performed by District prior to the execution of this Agreement.
7. It is expressly understood and agreed that this Agreement may be terminated for any reason at any time by either party upon thirty (30) days written notice.
8. It is expressly understood and agreed by the parties hereto that this Agreement will have no force or effect until duly executed by both parties. This Agreement shall continue for

successive one (1) year terms unless and until terminated in accordance with Section 7 above.

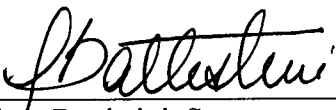
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**SIGNED** on this 5th day of March, 2014.

**FORT BEND COUNTY  
MUNICIPAL UTILITY DISTRICT NO. 35**

By:   
Susan Ruske, President

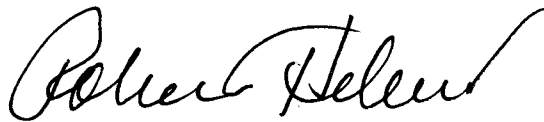
ATTEST:

  
Piero Battistini, Secretary



SIGNED on this 1 day of April, 2014.

**FORT BEND COUNTY**



Robert E. Hebert, County Judge

ATTEST:



Dianne Wilson, County Clerk



RESOLUTION ADOPTING FLOOD DAMAGE PREVENTION ORDER

WHEREAS, Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas ("District") is a participating community in the Federal Emergency Management Agency's ("FEMA") National Flood Insurance Program ("NFIP"); and

WHEREAS, the District's participation in the NFIP affords the residents of the District the ability to purchase flood insurance; and

WHEREAS, FEMA is requiring the District to adopt floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations prior to April 2, 2014, to continue participating in the NFIP; and

WHEREAS, the Board of Directors of the District (the "Board") believes participation in the NFIP is advantageous to the District and its residents; and

WHEREAS, the Board is desirous that the District continue its participation in the NFIP.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 35, OF FORT BEND COUNTY, TEXAS THAT:

Section 1: The regulations set forth in the Flood Damage Prevention Order, attached hereto as Exhibit "A", as amended by the Addendum to Flood Damage Prevention Order, attached hereto as Exhibit "B", are hereby adopted by the District, and shall be the floodplain management regulations of the District.

Section 2: The provisions of this Resolution shall be effective as of April 2, 2014, and shall remain in effect until modified by action of the Board, and any resolution heretofore adopted by the Board of Directors adopting floodplain management regulations shall be and is hereby revoked as of the effective date of this Resolution.

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PASSED AND ADOPTED this 5th day of March, 2014.

FORT BEND COUNTY MUNICIPAL  
UTILITY DISTRICT NO. 35, OF FORT  
BEND COUNTY, TEXAS

By: *Shwan Ruohe*  
President, Board of Directors

ATTEST:

By: *Battistini*  
Secretary, Board of Directors

332584.1



# **EXHIBIT A**

## **FLOOD DAMAGE PREVENTION ORDER**

FOR

**FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 35,  
OF FORT BEND COUNTY, TEXAS**

ADOPTED BY

**BOARD OF DIRECTORS OF FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT  
NO. 35, OF FORT BEND COUNTY, TEXAS**

*Adopted: March 5, 2014  
Effective: April 2, 2014*



60.3(d)

## **FLOOD DAMAGE PREVENTION ORDER**

### **ARTICLE I**

#### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

##### **SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of Directors of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas does ordain as follows:

##### **SECTION B. FINDINGS OF FACT**

(1) The flood hazard areas of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

##### **SECTION C. STATEMENT OF PURPOSE**

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

(7) Insure that potential buyers are notified that property is in a flood area.

#### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

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

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Control filling, grading, dredging and other development which may increase flood damage;

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

### **ARTICLE 2**

#### **DEFINITIONS**

Unless specifically defined below, words or phrases used in this order shall be interpreted to give them the meaning they have in common usage and to give this order its most reasonable application.

**ALLUVIAL FAN FLOODING** - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

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

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

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

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

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

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

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

**BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.

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

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

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

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

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

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

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

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

- (1) the overflow of inland or tidal waters.

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

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

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

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

**FLOOD PROTECTION SYSTEM** - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOOD PROOFING** - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** – see *Regulatory Floodway*

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

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

**HISTORIC STRUCTURE** - means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

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

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

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

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

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

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

**START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT** - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of



a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**VARIANCE** – means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

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

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

## **ARTICLE 3**

### **GENERAL PROVISIONS**

#### **SECTION A. LANDS TO WHICH THIS ORDER APPLIES**

The order shall apply to all areas of special flood hazard with the jurisdiction of Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas.

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Fort Bend County and incorporated areas," dated **April 2, 2014**, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this order.

### **SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this order.

### **SECTION D. COMPLIANCE**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this order and other applicable regulations.

### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

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

### **SECTION F. INTERPRETATION**

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

### **SECTION G. WARNING AND DISCLAIMER OR LIABILITY**

The degree of flood protection required by this order is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This order does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This order shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this order or any administrative decision lawfully made hereunder.

## **ARTICLE 4**

### **ADMINISTRATION**

### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Community's Engineer (initially Brown & Gay Engineers, Inc.) is hereby appointed the Floodplain Administrator to administer and implement the provisions of this order and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

## **SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

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

(1) Maintain and hold open for public inspection all records pertaining to the provisions of this order.

(2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this order.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

(6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available

from a Federal, State or other source, in order to administer the provisions of Article 5.

(9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

### **SECTION C. PERMIT PROCEDURES**

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(a) Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

(c) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);

(d) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;

(e) Maintain a record of all such information in accordance with Article 4, Section (B)(1);

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this order and the following relevant factors:

- (a) The danger to life and property due to flooding or erosion damage;
- (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (c) The danger that materials may be swept onto other lands to the injury of others;
- (d) The compatibility of the proposed use with existing and anticipated development;
- (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

#### **SECTION D. VARIANCE PROCEDURES**

(1) The Appeal Board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this order.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this order.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(4) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(5) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this order.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this order, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this order (Article 1, Section C).

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

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[10) Prerequisites for granting variances:

(a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(b) Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(11) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in Article 4, Section D (1)-(9) are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **ARTICLE 5**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **SECTION A. GENERAL STANDARDS**

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

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

(7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

## **SECTION B. SPECIFIC STANDARDS**

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

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article 4, Section C (1) a., is satisfied.

(2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:



(a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**(4) Manufactured Homes -**

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

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) the lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an

adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

### **SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

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

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this order.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this order.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

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

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 feet where a clearly defined

channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).

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

(a) have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or

(b) together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

(3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C are satisfied.

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

## **SECTION E. FLOODWAYS**

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

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

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

(2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

(3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.

#### **SECTION F. SEVERABILITY**

If any section, clause, sentence, or phrase of this order is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this order.

#### **SECTION G. PENALTIES FOR NON COMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this order and other applicable regulations. Violation of the provisions of this order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the community's (Fort Bend County Municipal Utility District No. 35, of Fort Bend County, Texas) Board of Directors from taking such other lawful action as is necessary to prevent or remedy any violation.

# **EXHIBIT B**

## **ADDENDUM TO FLOOD DAMAGE PREVENTION ORDER**

FOR

**FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 35,  
OF FORT BEND COUNTY, TEXAS**

*Adopted: March 5, 2014*

*Effective: April 2, 2014*

**FLOOD DAMAGE PREVENTION REGULATIONS**  
**ARE TO BE CHANGED AS FOLLOWS**

**ARTICLE 1**

**STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND METHODS**  
**ADD SUBSECTION E.:**

**SECTION E. SEVERABILITY**

It is the intention of these Regulations that the sections, 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, clause or phrase.

**ARTICLE 2**  
**DEFINITIONS**

**ADD FOLLOWING DEFINITIONS:**

**44 CFR, SECTION 60.3** – The National Flood Insurance Program Regulation for “floodplain management criteria for flood prone areas.”

**44 CFR, SECTION 65.12** – The National Flood Insurance Program Regulation defining the “revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments.”

**ACCESSORY STRUCTURES** – When accessory structures of one-hundred (100) square feet or less are to be placed in the floodplain, the following criteria shall be met:

1. Accessory structures shall not be used for human habitation (including work, sleeping, living, cooking, or restroom areas).
2. Accessory structures shall be designed to have low flood damage potential and

all parts of the structure below the base flood elevation (if not insured) and one foot above (if insured) must be made of FEMA-approved flood resistant materials.

**APPEAL** – A request for a review of the Floodplain Coordinator's interpretation of any provision of these Regulations or a request for a variance.

**BUILDING PERMIT** – The same as a Development Permit or permit.

**DEVELOPMENT PERMIT** – A permit for the construction of a development. Also called a building permit or floodplain Development Permit in these Regulations.

**DRAINAGE** – The runoff which flows over land as a result of precipitation. This shall include sheet flow, flow in streets and flows which may concentrate in local drainage systems with or without defined channels.

**EXPANSION** – An addition to an existing development.

**FILLING** – The placement of natural sands, dirt, soil, or rock above the natural grade to raise the elevation of the ground. Fill may also include concrete, cement, soil cement, or similar material as approved on a case-by-case basis.

**FLOODPLAIN COORDINATOR** – The County Engineer is designated as the Floodplain Coordinator.

**FREEBOARD** – A difference in elevation usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" is intended to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway condition, such as a wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

**IMPROVEMENT** – The process of erecting, constructing, enlarging, altering, and/or repairing of any development.

**MANUFACTURED HOME** – A structure as defined under Chapter 1201.003 (12), (18), and (20) of the Texas Occupation Code – Manufactured Housing – including 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. For floodplain management purposes the term "manufactured homes" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured homes" does not include park trailers, travel trailers, or other similar vehicles.

**NATURAL GROUND** – The grade unaffected by construction techniques such as fill, landscaping, or berms.

**RISING WATER** – The increase in level and/or intensity of an overflowing of water onto normally dry land.

**START OF DEVELOPMENT** – The first placement of permanent construction of a structure on a site, such as pouring a slab or footings, the installation of piles, or the placement of a manufactured home on a foundation. Included within this definition is grading and filling, installation of streets or underground utilities and other such development. A Development Permit is required prior to the start of any development.

**SUBDIVISION** – The division of any tract or parcel of land by plat, map, or description into two or more parts to lay out:

- 1) A subdivision of the tract, including an addition;
- 2) Lots; or
- 3) Streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts; or
- 4) A division regardless of whether it is made by using a metes and bounds description in a deed, by using a contract of sale or other executor contract to convey, or by using any other method.

Subdivision shall also include the subdivision, re-platting or other alterations of any tract of land, reserve or lot which is part of a previously recorded subdivision. Subdivision shall not include the division of land for agricultural purposes only, land divided by partition deeds executed by co-tenants for the purpose of effecting a partition of land, division of land for the purpose of settling family estates providing the division does not include any dedication or layout of streets or other public or private access ways, and division of a tract of land separated by two or more spaces or



lots that are to be rented, leased or offered for rent or lease for a term of less than 60 months without a purchase option, for installation of manufactured homes for use and occupancy as residence.

**SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the Fort Bend County Central Appraisal District value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENTS** — Any reconstruction, rehabilitation, addition, or improvement of a structure or structures where the cost of the improvements equals or exceeds fifty percent (50%) of the Fort Bend County Central Appraisal District Value of the structure before “start of construction”. This includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. An improvement is started when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. For the purpose of determining if an improvement is a substantial improvement, the owner for the permit must submit data reflecting the CAD value of the structure prior to being damaged, improved or modified and the cost of the restoration, improvement or modification. Costs shall include the value of all labor and materials. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by Fort Bend County local official(s) and which are the minimum necessary conditions; or (2) any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

**TEXAS WATER CODE 11.086** – Overflow caused by Diversion of Water.

**TOPOGRAPHY** – The description of the three-dimensional shape of the land surface based upon elevation contours.

**UNINCORPORATED AREA** – The area in Fort Bend County, Texas, that is not within an incorporated area of a city, town, or village.

**UTILITY** – A person, as defined herein, engaged in this State in the:

- a. generation, transmission, or distribution and sale of electric power;
- b. transportation, distribution and sale through a local distribution system of natural or other gas for domestic, commercial, industrial, or other use;
- c. ownership or operation of a pipeline for the transmission or sale of natural or other gas, natural gas liquids, crude oil or petroleum products to other pipeline companies, refineries, local distribution systems, municipalities, or industrial consumers;
- d. provision of telephone or telegraph service to others;
- e. production, transmission, or distribution and sale of steam or water;
- f. operation of a railroad; or
- g. the provisions of sanitary sewer service to others.

**VARIANCE** – A grant of relief by a community from the requirements of these Regulations. A variance, therefore, permits construction or development in a manner otherwise prohibited by these Regulations. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

### **ARTICLE 3**

#### **GENERAL PROVISIONS**

##### **SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES**

##### **REPLACE ENTIRE SECTION A. WITH:**

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

Subject to Article 3, Section C, provisions of these Regulations shall apply to all new construction or development, proposed subdivisions, proposed manufactured home communities and/or manufactured housing as defined under Chapter 1201.003 (12), (18), and (20) of the Texas Occupation Code, Manufactured Housing, alter the topography that would affect others or violate Section 11.086 of the Texas Water Code, 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 the designated area affected by these Regulations.

**SECTION C. ESTABLISHMENT OF A DEVELOPMENT PERMIT**

**REPLACE ENTIRE SECTION C. WITH:**

A Development Permit shall be required to ensure conformance with the provisions of these Regulations. Any fully enclosed structure over 100 sq. ft. (i.e. barn, garage, workshop, storage building) and/or the development of improved or unimproved real estate as defined in these Regulations.

No person shall erect, construct, enlarge, alter, repair, or improve any building or development structure or manufactured housing as defined under Chapter 1201.003 (12), (18), and (20) of the Texas Occupation Code, Manufactured Housing, or alter the topography that would affect others or violate Section 11.086 of the Texas Water Code in the applicable jurisdiction, or cause such to be done, without first obtaining a separate Development Permit for such buildings or structures from the Floodplain Coordinator.

**SECTION D. COMPLIANCE**

**ADD FOLLOWING AFTER LAST PARAGRAPH:**

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 from continuing the violation or threat of violation including, but not limited to, an order directing the person to remove illegal improvements and restore preexisting conditions. In addition, a person who violates these Regulations is subject to a civil penalty of not more than \$100.00 for each act of violation and for each day of violation.

Any person who diverts or impounds the natural flow of surface waters or permits a diversion or impounding by him to continue in a manner that damages the property of another by the overflow of the water diverted or impounded may be subject to a civil suit in the appropriate court for injunctive relief to restrain the person from continuing the violation and directing the person to remove illegal improvements and restore the property to preexisting conditions and seek a civil penalty of \$100.00 for each act of

violation and for each day of the violation.

Fort Bend County shall file against any parcel of land that is in violation of these Regulations, a notice in the real property records, identifying any condition on the property that the County determines violates the rules adopted by these Regulations.

No person may provide utility services that connect the land and/or improvements with utility services without written certification from the County that the property complies with all county regulations.

#### **ARTICLE 4 ADMINISTRATION**

##### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR** **ADD AS SECOND PARAGRAPH:**

The **Floodplain Administrator** shall assign its duties of Floodplain administration to Fort Bend County under an Interlocal Agreement between the District and Fort Bend County. The **County Engineer** is designated as the Floodplain Coordinator. The Development Permit and related information will be filed in the Community depository at the Fort Bend County Engineering Department.

##### **SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR** **ADD FOLLOWING SUBSECTIONS:**

11. The Floodplain Coordinator, or his duly authorized representative, may enter any building, structure, or premises to perform any duties imposed by these Regulations.
12. Determine non-compliance with diversion or impoundment of the natural flow of surface waters and referral to the County or District Attorney's Office for enforcement, when necessary.
13. Upon notice from the Floodplain Coordinator or designated representative

that the work on any building, structure, dike, bridge, or any improvement which would affect water drainage, is being done contrary to the provisions of these Regulations, contrary to the site and/or building plans approved by the Floodplain Coordinator or designated representative, or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to his agent, or to the person doing the work. Where an emergency exists, no written notice shall be required to be given by the Floodplain Coordinator for referral to the County or District Attorney's Office for enforcement, when necessary.

14. The Floodplain Coordinator may revoke a permit issued under the provisions of these Regulations if there has been any false statement or misrepresentation as to a material fact in the application or plans upon which the permit or approval was based.
15. If any parcel of land is determined to be in violation of these Regulations, Fort Bend County shall file a notice in the real property records identifying any condition on the property that the Floodplain Coordinator determines violates the rules adopted by these Regulations.

**SECTION C. PERMIT PROCEDURES**

**REPLACE ENTIRE SECTION C. WITH:**

1. When a Development Permit is required:
  - a. Prior to the start of any work within floodplain or flood-prone areas or any development, as defined herein.
  - b. Except within floodplain or flood-prone areas, prior to fill placement or excavation greater than 40 loads (500 cubic yards) or grading changes results in the modification to existing drainage and/or the increase in any elevation by six (6) inches or more. Determinations and clarifications shall be provided by the Floodplain Coordinator.
  - c. Ordinary and minor repairs may be made without a Development

Permit provided that such repairs shall not violate any of the provisions of these Regulations.

2. The application for a Development Permit shall be presented by the owner or the agent of the owner specifically authorized to act on the owner's behalf on approved forms and may include, but is not limited to:
  - a. Site plan and/or survey from a registered surveyor showing the locations, dimensions and elevations of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard; and relationship to all easements and roadways. The site plan shall be to scale or have sufficient dimensioning to clearly detail the location of the development.
  - b. Metes and bounds description of the property.
  - c. Permit fee, as reflected in the Fort Bend County fee schedule.

The Floodplain Coordinator may require the submission of additional information, drawings, specifications or documents, if he is unable to determine whether a permit should be issued from the information submitted.

The Floodplain Coordinator shall require permits from other Local, State, and Federal agencies prior to the issuance of a Development Permit. The owner is responsible for compliance with all applicable regulations and permit requirements and continued compliance consistent with County approvals.

3. The following requirements in addition to Article 4, Section (D) (2) will be completed for a Development Permit located within a Special Flood Hazard Area (floodplain/floodway):

- a. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
- b. Elevation (in relation to mean sea level), to which any non-residential structure shall be floodproofed;
- c. A floodproofing certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the flood proofing criteria of Article 5, Section B(2).
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
- e. Maintain a record of all such information in accordance with Article 4, Section (C)(1).
- f. A mitigation plan will be provided for all development on the property to assure compliance with 44 CFR 60.3.
- g. Upon receipt of the elevation certificate or floodproofing certificate and mitigation plan, the Floodplain Coordinator will sign and date the original Development Permit and furnish the Applicant a signed copy;
- h. Applicant will inform the Floodplain Coordinator when construction of the lowest floor is to start.
- i. Applicant will deliver to the Floodplain Coordinator elevation certificate (FEMA 81-31) of "as-built" lowest floor elevation of the structure within (7) calendar days of completion of construction of the lowest floor, certified by a registered professional engineer, surveyor, or architect.

4. Approval or denial of a Development Permit by the Floodplain Coordinator shall be based on all of the provisions of all of these Regulations and the following relevant factors:

- a. The danger to life or damage to property due to the flooding or erosion damage;
- b. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The cost of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water and the effects of wave action if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the purpose of use;
- j. The relationship of the proposed use to the comprehensive plan for that area; and



5. The Floodplain Coordinator shall determine the minimum elevation of the lowest floor (including basement) of a new or substantially improved structure for a Development Permit.
6. A Development Permit Application will be accepted and approved by the Floodplain Coordinator only after the Development Permit is deemed to be in complete compliance with all Fort Bend County Regulations.
7. The Development Permit will not be issued without dated signature of the Floodplain Coordinator or his designee.

**ARTICLE 5**  
**PROVISIONS FOR FLOOD HAZARD REDUCTION**

**SECTION A. GENERAL STANDARDS**

**REPLACE SUBSECTION 1. WITH:**

1. 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.
  - a. If fill material is to be used to elevate any structure in Zones A, A1-30, AE, AO, AH, AR, or A99, the following will apply:
    - i. Fill material must be compacted to at least 95% of Standard Laboratory Maximum Density (Standard Proctor) according to ASTM Standard D-698;
    - ii. Fill soils must be fine grained soils of low permeability, such as those classified as CH, CL, SC, or ML according to ASTM Standard D-2487, "Classification of Soils for Engineering Purposes." See Table 1804.2 in the "2000 International Building Code (IBC)" for description of these soils types;
    - iii. The fill material must be homogenous and isotropic; that is, the soil must be all of one material, and the engineering properties must be the same in all directions.

**ADD SUBSECTION 8.:**

8. No person may divert or impound the natural flow of surface waters or allow a diversion or impounding to continue in a manner that damages the property of another by the overflow of the water diverted or impounded. Any such damage, as established by a property owner claiming damage to his property and accepted by the Floodplain Coordinator, may result in an action as provided in Article 9.

**SECTION B. SPECIFIC STANDARDS**

**REPLACE SUBSECTIONS AS FOLLOWS:**

1. **RESIDENTIAL CONSTRUCTION** – New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated **eighteen (18) inches** above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the Floodplain Coordinator that the standard of this subsection as proposed in Article 4, Section C (3)(a), is satisfied.
2. **NON-RESIDENTIAL CONSTRUCTION** – New construction and substantial improvements of any commercial, industrial or other non-residential structure shall either have the lowest floor (including basement) elevated **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 and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Coordinator.

#### **4. MANUFACTURED HOMES**

- a. All manufactured homes, including manufactured housing as defined under Chapter 1201.003 (12), (18), and (20) of the Texas Occupation Code, to be placed or substantially improved within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, the bottom chord of the supporting I-beam of manufactured homes shall be elevated thirty-six (36) inches above natural adjacent grade or eighteen (18) inches above BFE, whichever is the highest and anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- b. Manufactured homes may not be placed in a floodway.
- c. Fort Bend County has Regulations Concerning Minimum Infrastructure Standards for Manufactured Home Rental Communities, which must be complied with in addition to these Regulations if the land is to be developed into a manufactured home park.

#### **5. RECREATIONAL VEHICLES**

- a. Any recreational vehicle remaining at one location in excess of 180 days shall be permitted and elevated above the base flood elevation required. All recreational vehicles shall be tied down to resist floatation.
- b. Any person, who moves a recreational vehicle from a location in order to avoid having to permit, elevate and tie down 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 in "a" above.

- c. Any recreational vehicle that is being used as a residence must be permitted, elevated and tied down in the same manner as required for manufactured homes and the above 24 hour rule does not apply.
- d. All recreational vehicles shall be capable of evacuation under its own power or if dependent of external power, the vehicle shall be in running condition. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- e. Egress of recreational vehicles shall not be prevented by stored or fixed items such as stairs, porches, storerooms, etc.
- f. Recreational vehicles stored on a homeowner's lot where the house already exists are exempt from the 180-day permit regulations subject to other ordinances or restrictions. These vehicles must be unoccupied and not connected to water or sewer facilities. It must have a current license, inspection sticker, and be capable of highway use.

**ADD SUBSECTION 6:**

**6. FILL MATERIAL AND EXCAVATION**

- a. A Development Permit may not be required if less than 40 loads (500 cubic yards) of fill material or excavation per acre of land are added to or removed from the property and the land is not within the floodplain. Each acre may not be affected by more than 40 loads (500 cubic yards) of fill material or excavation. Property owner is required to equally disburse and spread fill material to ensure no more than 40 loads (500 cubic yards) of fill being placed on each acre.
- b. If more than 40 loads (500 cubic yards) of fill material or excavation are to be added or removed per acre of land, a Development Permit

- must be obtained from the Floodplain Coordinator. The property owner will be required to provide a hydraulic analysis (drainage plan) prepared by a registered professional engineer and approved by the Fort Bend County Drainage District.
- c. The property owner must be able to provide to the County information relating to the location from which the fill material came, if it was from a governmental project, and who hauled/delivered the fill material.
  - d. Unless agreed to in writing by the adjoining landowner, fill material shall be placed no closer than ten (10) feet from the property line. Unless agreed to in writing by the adjoining landowner, excavations, except approved drainage facilities, shall not be allowed closer than twenty (20) feet plus twice the depth of the excavation from the property line.
  - e. If the fill is placed or an excavation is proposed that modifies the natural flow of water on the property, outside an Area of Special Flood Hazard, then the property owner is required to mitigate for the altered flow. Natural flow could be by sheet flow, swale, ditch, slough or other natural or man-made means of conveyance of water. Mitigation could include ditches, swales, detention/retention ponds and any other means approved by the Floodplain Coordinator.
  - f. All fill material must be spread evenly, in accordance with the applicable Development Permit, within six (6) months of the Permit issuance date. If the fill material is not spread within this time period, the Floodplain Coordinator may require that the property owner remove the fill material.

**SECTION E. FLOODWAYS**  
**ADD SUBSECTION 4.:**

- 4. The storage of hazardous materials, in any form, is prohibited within the boundaries of the regulatory floodway as delineated on the Community's FIRM.

**SECTION F. SEVERABILITY**

**REPLACE ENTIRE SECTION F. WITH:**

**SECTION F. ADDITIONAL REQUIREMENTS FOR BASE FLOOD ELEVATIONS**

Fort Bend County will require an elevation to **eighteen (18) inches** above the base flood elevation for development in flood hazard area Zones "A" and "AE", as indicated on the National Flood Insurance Program FIRM map for the County.

When a residential or non-residential structure is intended to be constructed in an approximate Zone A, a BFE must be determined by using the same engineering standards and methods that are used to develop BFEs in a Flood Insurance Study (FIS) or other technical methods recommended by the County Drainage Engineer and approved by the Floodplain Coordinator.

Fort Bend County will require compliance with the Fort Bend County Drainage Criteria Manual which is incorporated by reference herein and may be obtained from the Fort Bend County Clerk, the Fort Bend County Engineer or the Fort Bend County Drainage District Engineer.

**SECTION G. PENALTIES FOR NON COMPLIANCE**

**DELETE ENTIRE SECTION G**

**ADD THE FOLLOWING ARTICLES**

**ARTICLE 6**

**UTILITIES**

Any structure or other development may not be connected for water, sewer, and electricity or gas utility services if it is not in compliance with these Regulations.

**ARTICLE 7**  
**HAZARDOUS WASTE**

**SECTION A. DEFINITIONS**

1. "Hazardous Waste Management Facilities" included facilities for storage, processing or disposal of any waste identified or listed as hazardous by the Administrator of the United States Environmental Protection Agency, pursuant to 42 U.S.C.6901, et seq., as amended.
2. On Site Storage Processing or Disposal includes those activities defined in Section 335.42 (a) (44) [156.22.05.102 (a) (44)] Texas Administrative Code.

**SECTION B. STATEMENT OF PURPOSE**

In order to promote and protect the public interest in providing appropriate protection against the perils of flood losses, no building or Development Permits will be granted for the construction of any injection well or other type of disposal site for hazardous material or any hazardous waste management facilities in any flood prone areas or floodplain areas having special flood hazards, as delineated on the Official Flood Hazard Map of Fort Bend County, with the exception of hazardous waste management facilities for storage, processing or disposal of on-site generated waste. [See Article 5, Section A (6) and A (7)].

**ARTICLE 8**  
**OTHER REGULATIONS**

In addition to the Regulations herein, prior to the issuance of Development Permit, the development must also comply with all regulations of Fort Bend County including:

**ON-SITE SEWERAGE FACILITIES SYSTEM (OSSF) PERMITS:** OSSF permits are required in accordance the Texas Health and Safety Code and Fort Bend County regulations for all properties that do not obtain a connection to an approved sewer system. Development shall comply with the requirements of Fort Bend County Environmental Health Department.

**DRAINAGE PLAN:** Fort Bend County has adopted a Drainage Criteria Manual. The development of any tract of land or building of any structure shall include detention and other drainage facilities. All development shall be approved by the Fort Bend County Drainage District Engineer.

**MANUFACTURED HOME REGULATIONS:** The development of a manufactured home park shall comply with Regulations Concerning Minimum Infrastructure Standards for Manufactured Home Rental Communities as adopted by Fort Bend County.

**SUBDIVISIONS:** All subdivisions shall comply with the requirements of the Regulations of Subdivisions as adopted by Fort Bend County.

**LIFE SAFETY:** Fort Bend County has established standards for fire protection and life safety. All development subject to these rules shall be approved by the Fort Bend County Fire Marshal.

**OUTDOOR LIGHTING:** Fort Bend County has adopted Outdoor Lighting Regulations. All development shall obtain approval of the Outdoor Lighting Plan prior to issuance of a Development Permit.

**SIGNS:** Fort Bend County has established regulations for signs along and visible from Tollroads. All development subject to these rules shall obtain approval of all proposed signs prior to issuance of a Development Permit.

## **ARTICLE 9 VIOLATIONS AND PENALTIES**

### **SECTION A. REVOCATION OF PERMIT**

The Floodplain Coordinator may revoke a permit or approval issued under the provisions of these Regulations, in cases where there have been false statement or misrepresentation as to a material fact in the application or plans upon which the permit or approval was based.



## **SECTION B. VIOLATION AND PENALTIES**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these Regulations. Violation of the provisions of these Regulations by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

Any person who violates these Regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation. Each violation of these Regulations and each day of a continuing violation is a separate offense.

Nothing herein contained shall prevent the Community from taking such other lawful action as is necessary to prevent or remedy any violation.

If it appears that 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 from continuing the violation or threat of violation including, but not limited to, an order directing the person to remove illegal improvements and restore preexisting conditions. In addition, a person who violates these Regulations is subject to a civil penalty of not more than \$100.00 for each act of violation and for each day of violation.

Any person who diverts or impounds the natural flow of surface waters or permits a diversion or impounding by him to continue in a manner that damages the property of another by the overflow of the water diverted or impounded may be subject to a civil suit in the appropriate court for injunctive relief to restrain the person from continuing the violation and directing the person to remove illegal improvements and restore the property to preexisting conditions and seek a civil penalty of \$100.00 for each act of violation and for each day of the violation.

Fort Bend County shall file against any parcel of land that is in violation of these Regulations, a notice in the real property records identifying any condition on the

property that the County determines violates the rules adopted by these Regulations.

No Person may provide utility services that connect the land and/or improvements with utility services without written certification from the County that the property complies with rules adopted.