

San Patricio County Flood Damage Prevention Order

As Amended, February 5th, 2007
Effective February 5th, 2007

FLOOD DAMAGE PREVENTION ORDER

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FLOOD DAMAGE PREVENTION ORDER

ARTICLE 1

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Texas has in Water Code Section 16.3145 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Commissioners Court of San Patricio County Texas does ordain as follows:

SECTION B. FINDINGS OF FACT

- (1) The flood areas of San Patricio County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services and extra-ordinary public expenditures for the 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 the flood plains which cause an increase in flood heights and velocities, and by the occupancy of the flood areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

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

- (1) Protect human life and health;
- (2) Minimize expenditures 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 flood plains;
- (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;
- (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 and 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 damages at the time of initial construction;

- (3) Control the alterations of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodations of flood waters;
- (4) Controlling filling, grading, dredging, and other development that 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 it's most reasonable application.

ACCESSORY STRUCTURE – means should be no more than a minimal initial investment, may not be used for human habitation, and must be elevated or anchored and built to withstand flood damage. Examples: Detached garages, carports, storage sheds, pole barns, and hay sheds.

(Reference: Definitions, minor projects and Article 5 Section F (2))

ALL AREAS SUBJECT TO FLOODING – all areas subject to general and temporary conditions or complete inundation of normally dry land areas from;

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

ALLUVIAL FAN FLOODING – means flooding occurring on the surface of an alluvial fan or similar land form 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 land form below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

AREAS OF SHALLOW FLOODING – means a designated AO, AH, or VO zone 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 the flooding is unpredictable and the 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 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 in 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.

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

BASEMENT – means an 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.

COASTAL HIGH HAZARD AREA – means an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storm or seismic sources.

CONVEYANCE SHADOW – this is the area upstream and downstream of an existing building or other obstructions to flood flows. Flood water is already flowing around the larger obstruction, so the addition of a new structure will not change existing flood flow. (Reference: Article 5, Section F (2)).

COUNTY ENGINEER OF RECORD – Engineering Firm Selected by the San Patricio County Commissioners Court, for review of Plats and Plans of New Subdivisions in unincorporated area(s) of the County.

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 in 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 a non-basement building (1) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or sheer walls parallel to the floor and (ii) 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 A1-30, AE,

A, A99, AO, AH, B, C, X, and D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings significant to facilitate the unimpeded movement of flood waters. In case of Zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building”, even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3 (e) (5) of the National Flood Insurance Program Regulations.

EXISTING CONSTRUCTION – means for the purpose of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, from 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 serving the lots of 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 slabs) is completed before the effective date of the Flood Plain Management Regulations adopted by a community. (Reference: Article 5, Section B (4) b, and Section G (7)).

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION – means the preparation of additional sites by the construction of the 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 the pouring of concrete slabs). (Reference: Article 5, Section B (4) b, Section G (7)).

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

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

FLOOD FRINGE - means the portion of a flood plain lying on either side of a floodway.

FLOOD INSURANCE RATE MAP (FIRM) – means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and risk premium zones applicable to the community. (Current dates March 18, 1985 and August 4, 2004)

FLOOD INSURANCE STUDY (FIS) – is 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. (Current date August 4, 2004)

FLOOD PLAIN OR FLOOD-PRONE AREAS – means any land areas susceptible to being inundated by water from any source (see definition of flooding).

FLOOD PLAIN 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 flood plain management regulations.

FLOOD PLAIN MANAGEMENT REGULATIONS – means Commissioners Court order, zoning order, subdivision regulations, building codes, health regulations, special purpose order (such as flood plain order, grading order and erosion control order and other applications of police power). The term describes such state or local regulations, and any combination thereof, which provides 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 areas within a community subject to “special flood hazard” and the extent of 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 a combination of structural and nonstructural 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 other contents.

FLOODWAY (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 elevations more than a designated height.

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 including 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:

- (a) 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;
- (b) 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;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or;
 - (2) 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 National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MINOR PROJECTS – means projects too small to warrant an engineering study, Elevation, Flood proofing and No-rise Certifications such as building additions and/or accessory buildings/structures no more than an initial investment. Minor projects shall not exceed 200 square feet in floor space. (Reference: Article 5, Sections B (2), D (3) and F (2)).

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.

PRIMARY FRONTAL DUNE - means 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 occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

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.

SAND DUNES – means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

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 or filling; nor does it include the installation of streets and/or walkways; nor does not include excavation for basement, footings, piers or foundations or the erection of temporary forms,; nor does it include the 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 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 it's 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, additional, 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 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 conditions or
- (2) (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE – is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (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), (erythema) (2), (erythema) (4), or (erythema) (5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION – means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (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 subject to flooding within the jurisdiction of San Patricio County.

SECTION B. BASIS FOR ESTABLISHING ALL AREAS SUBJECT TO FLOODING

All areas subject to flooding identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, “The Flood Insurance Study for San Patricio County”, dated August 04, 2004, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this order.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A 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. INSPECTION

The Floodplain Administrator or his representative shall make monthly inspections of areas subject to flooding within the county and report violations to the County Attorney for appropriate action.

SECTION F. 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 other order, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail

SECTION G. INTERPRETATION

In the interpretation and application of this order, all provisions shall be:

- (1) considered as minimum requirements;
- (2) (2) liberally construed in favor of the governing body; and
- (3) (3) Deemed neither to limit or repeal any other powers granted under State statutes.

SECTION H. 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 damaged that result from reliance on this order or any administrative decision lawfully made thereunder.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The San Patricio County Emergency Management Coordinator is hereby appointed the Floodplain Administrator. The Emergency Management Coordinator shall be provided a Certified Floodplain Program Manager to assist in administering this order and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to the 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 proposed building site, 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 all areas subject to flooding (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 Commission of the Environmental Quality, 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 one foot, provided that the community first applies for a conditional FIRM revision through FEMA.

SECTION C. PERMIT PROCEDURES

- (1) Application for a 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 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 flood waters and the effects of wave action, if applicable, expected at the site;
 - h. The necessity to the facility of a waterfront location, where applicable;
 - i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - j. The relationship of the proposed use to the comprehensive plan for that area.

(3) Subdivision Reviews of Plats & Plans by the County Engineer of Record

The County Engineer of Record will:

- a) Reviews of all preliminary plats for subdivisions for compliance with San Patricio County requirements and Model Subdivision Rules and written recommendations to Commissioners Court will be provided to the Court via the Flood Plain Office by the County Engineer of Record.
- b) The County Engineer of Record will provide Coordination with sub-divider and County to insure that all required documents are submitted to San Patricio County Flood Plain Office and if applicable Health Dept. Environmental Office, Septic Division.
- c) Notify the Flood Plain Office of pending Subdivision Plat approvals, Flood Plain Coordinator will submit a request for Commissioners Court Agenda and notify County Engineer of said date.

- d) Attend Commissioners Court meeting for the final Plat.
- e) Review plans and specifications for subdivisions and make a filed inspection of the completed infrastructure improvements with Flood Plain Coordinator and if applicable Health Dept. Environmental Office, Septic Division.
- f) Provide coordination assistance with Texas Water Development Board (TWDB) for MSR compliance issues, if applicable.
- g) Submit request for payment of Service to Flood Plain Management Office in accordance with fee schedule in Appendix A section B.

SECTION D. VARIANCE PROCEDURES

- (1) The appeal Board as established by the Commissioners Court 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 the order.
- (6) 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, providing the relevant factors in Section C (2) of this Article have been fully considered. As the lot size increases beyond the one-half 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 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 order.
- c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with that 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 Commissioners Court for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

- (1) the criteria outlined in Article 4, Section D (1) – (9) are met, and
- (2) methods that minimize flood damages during the base flood and creating 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 include an 18” freeboard above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit an Elevation /Certificate 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 include an 18” freeboard above the base flood elevation, an Elevation Certificate will be submitted to the Floodplain Administrator, 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 Floodproofing Certificate, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator. Minor projects not to exceed 200 square feet in floor space shall be exempt from the certifications.
- (3) Enclosures – New construction and substantial improvements, with fully enclosed areas below the lowest floor that are unable 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 having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

- b. The bottom of all openings shall be no higher than one 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 include an 18" freeboard 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 to be elevated so that either:
 - (i) the lowest floor of the manufactured home is to include an 18" freeboard 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,
- (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 on this order.
- (2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet 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 of 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 base flood depths of 1 to 3 feet 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, the following provisions apply;

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at the community’s FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of non-residential structures:
 - (i) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community’s FIRM (at least two feet if no depth number is specified), or;

- (ii) 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 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 (1) a, are satisfied. Minor projects shall not exceed 200 square feet in floor space and shall be exempt from the certification.
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. STANDARDS OF AREAS OF MINIMAL FLOODING (B/C ZONES)

Flood Zone B includes areas between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with areas subject to average depths less than one foot or where the contributing drainage area is less than one (1) square mile or an area protected by levees from the base flood.

Flood Zone C includes areas of minimal flooding.

- (1) Residential, Commercial and Industrial Construction – New construction and substantial improvements of any residential commercial and/or industrial structure shall have the lowest floor (including basement) elevated 18” above the highest adjacent ground.
- (2) Non-residential construction – New construction and substantial improvements of any non-residential structures shall be designed (or modified) to minimize flood damage and adequately anchored to prevent flotation, collapse or lateral movement of the structure.

SECTION F. FLOODWAYS

Floodways – located within areas of special flood hazard established in Article 3, Section B, area 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 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. A Registered Professional Engineer shall submit a No-Rise Certificate to the Floodplain Administrator certifying that the standard of this subsection is satisfied. This certification shall include attached documentation to support analyses and findings.

- (2) Minor projects are too small to warrant an engineering study and the certification. Building additions, accessory buildings, and similar small projects can be located in the conveyance shadow and must have the top of the bottom floor elevated to or above the base flood elevation. Minor projects shall not exceed 200 square feet in floor space.
- (3) If Article 5, Section Erythema (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (4) 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 applies for a conditional FIRM and floodway revision through FEMA.

SECTION G. COASTAL HIGH HAZARD AREAS

Located within the areas of special flood hazard established in Article 3, Section B, area areas designated as Coastal High Hazard Areas (Zones V1-30, VE, and/or V). These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, in addition to meeting all provisions outlined in this order, the following provisions must also apply:

- (1) Obtain the elevation (in relation to mean seal level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The Floodplain Administrator shall maintain a record of all such information.
- (2) All new construction shall be located landward of the reach of mean high tide.
- (3) 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 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. 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 (3) (i) and (ii) of this Section.

- (4) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect 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 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 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; and
- (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).

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. Such enclosed space shall be useable solely for parking of vehicles, building access or storage. Such space shall not be used for human habitation.

- (5) Prohibit the use of fill or structural support of buildings.
- (6) Prohibit man-made alteration of sand dunes and mangrove stands which increase potential flood damage
- (7) Manufactured Homes – Require that manufactured homes placed or substantially improved within Zone V-30, V, and VE 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 the result of a flood, meet the standards of paragraphs (1) through (6) of this Section and that manufactured homes placed or substantially improved on other sites in an existing manufactured home park or subdivision within Zones V1-30, V, and VE on the community’s FIRM meet the requirements of Article 5, Section B (4) of this order.

- (8) Recreational Vehicles – Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community’s FIRM either:
 - (i) be on the site for fewer than 180 consecutive days,
 - (ii) be fully licensed and ready for highway use, or
 - (iii) meet the requirements in Article 3, Section C of this order and paragraphs (1) through (6) 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.

ARTICLE 6

COMPLIANCE

SECTION A. UTILITY CONNECTIONS

Final connections of utility services shall not be made until after the Floodplain Administrator has approved the structure/building to be in compliance with the Flood Damage Prevention Order of San Patricio County. All utility companies servicing customers within the jurisdiction of the County of San Patricio shall be apprised of this order and specifically this requirement.

ARTICLE 7

PENALTIES

SECTION A. CIVIL AND/OR CRIMINAL PENALTIES

Any person, firm or corporation who violates any provision of this regulation, or who permits any building or other structure to remain in violation of this regulation, shall be subject to a civil penalty and/or criminal penalty of not more than \$100 for each act of violation and for each day of violation.

When it may appear that any person, firm or corporation has violated or is violating or threatening to violate, a provision of the regulation, the Commissioners; Court may cause a civil suit and/or a criminal suit to be instituted in a District Court for injunctive relief to restrain the person, firm or corporation from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty and/or criminal penalty of not more than \$100 for each act of violation and for each day of violations, as the court may deem proper, for injunctive relief, civil penalties and/or criminal penalties.

APPENDIX A

DEVELOPMENT PERMIT FEE SCHEDULE

Be it know that the permit fee schedule covering fees for Development Permits required in the San Patricio County Floodplain Damage Prevention Order is hereby repealed in its entirety. Be it further known that the following fee schedule shall hereafter be known as the "Development Permit Fee Schedule" and to read as follows:

A. Development Permit Fees

1. Standardized building valuation: The valuation to be used in computing Development Permit fees shall be the total value of construction project. Documentation shall be submitted to substantiate the submittal of a comparable method. The applicant for a Development Permit may appeal any determination of the permitting official to the County Commissioners' Court.

2. Rates:

<u>TOTAL VALUATION</u>	<u>FEEES</u>
\$1,000.00 and less	\$25.00
\$1,001.00 to \$50,000.00	\$25.00 for the first \$1000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00
\$50,000.00 to \$100,000.00	\$270.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fracture thereof to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$470.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, not to exceed \$1,500.00

\$1,500.00 FOR EACH \$500,000.00 PLUS \$2.00 FOR EACH FRACTION THEREOF.

\$500,001.00	\$1,670.00
\$1 Million	\$3,170.00
\$1.5 Million	\$4,670.00
\$2 Million	\$6,170.00
\$2.5 Million	\$7,670.00
\$3 Million	\$9,170.00
\$3.5 Million	\$10,670.00
\$4 Million	\$12,170.00
\$4.5 Million	\$13,670.00
\$5 Million	\$15,170.00
\$5.5 Million	\$16,670.00

As the Total Value of Construction increases continue to add \$1500.00 for each \$500,000.00 and \$2.00 for each fraction until amount is met.

B. FEE SCHEDULE FOR SUBDIVISION PLATS:

Plats and Plans for New Subdivision in unincorporated area(s) of the County will be paid to the Flood Plain Office. County Engineer of Record will then submit to San Patricio County for payment of Service.

a)	Review of Preliminary Plat	\$350.00
b)	Resubmitted Preliminary Plat	\$200.00
c)	Review of Final Plat	\$500.00
d)	Review of Plans and Specifications	\$200.00

CERTIFICATION

It is hereby found and declared by San Patricio County that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this order become effective immediately.

Therefore, an emergency is hereby declared to exist, and this order, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

APPROVED BY:

The Honorable Terry Simpson
San Patricio County Judge

PASSED:

Date

I, the undersigned, _____, do hereby certify that the above is a true and correct copy of an order duly adopted by the Commissioners' Court, of San Patricio County, at a regular meeting duly convened on _____.

Date

San Patricio County Clerk
Signature and Seal

Date