

FLOOD DAMAGE PREVENTION REGULATION
ARTICLE I
STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND
METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Texas has in Chapter 16 of the Texas Water Code delegated the responsibility of local government units to adopt regulations designed to minimize flood losses. *See e.g. Tex. Water Code §§ 16.311-16.319.* Therefore, the Commissioners Court of Smith County, Texas does ordain as follows:

SECTION B. FINDINGS OF FACT

- 1) The flood hazard areas of unincorporated areas of Smith County are subject to periodic inundation which may result 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, flood proofed or otherwise protected from flood damage.

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance 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 blight areas.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance 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 ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Administrator – means the official appointed by the Commissioners Court to carry out the duties and responsibilities contained herein.

Appeal – means a request for a review of the Flood Plain Administrator’s interpretation of any provision of this ordinance or a request for a variance.

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 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, A1-30, VO, V1-30, VE, A-99, or V.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement – means any area of the building having its floor subgrade (below ground level) on all sides.

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 comprised.

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 nonbasement building (I) 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 case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or sheer walls parallel to the floor of the water 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 sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, “elevated building” also includes a building otherwise meeting the definition of “elevated building,” even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

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 FIRM’S 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 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 hazards and the risk premium zones applicable to the community.

Flood Insurance Study – is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood-Floodwater Map.

Floodplain or Flood-Prone Area – means any land area susceptible to being inundated by water from any source (see definition of flooding).

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 a “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 (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.

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 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 or 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 Interior or;
 - 2) Directly by the Secretary of the Interior in the 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 a 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; providing 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 parts which is built on a permanent chassis and is designed for use without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

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.

New Construction – means for the purpose of determining insurance rates for structure 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 lots on which the

manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading, or the pouring of concrete pads) is complete on or after the effective date of floodplain management regulations adopted by a community.

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 a temporary living quarters for recreational camping, travel, or seasonal use.

Start of New 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 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 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 a walled or 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 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 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) 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. Any structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3, including but not limited to subsections (5), (c)(4), (c)(10), (d)(3), (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 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 ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Smith County.

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 a scientific and engineering report entitled, “The Flood Insurance Study for Smith County,” dated **March 30, 2007**, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps and Digital Flood Insurance Rate Maps (**FIRMs, DFIRMS, and FBFMs** *and any revisions thereto* **are hereby adopted by reference and declared to be a part of this ordinance**).

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

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 ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, 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 ordinance, 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 ordinance 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 ordinance 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 ordinance shall create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. ESTABLISHMENT OF FEES

The Commissioners Court with the assistance of the County Administrator will establish fees commensurate with the service rendered by the County.

SECTION I. UNRESTRICTED USES OF THE FLOOD HAZARD AREA

- 1) Development for agricultural purposes which is constructed to the standards of the United States Department of Agriculture and Soil Conservation Service.
- 2) The following uses having a low flood-damage potential shall be permitted to the extent that they cause no obstruction of flood flows, are not prohibited by any other court order, and provided that they do not require the construction of structures, placement of fill, alteration of stream channels, or storage of materials or equipment;
 - a) Other agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticulture, viticulture, sod farming, game farming, and fish hatcheries. Categorized under general farming are temporary structures such as animal pens, cribs, temporary crop covers, machinery storage sheds, wells, and well installations primarily for stock or crop use, open wire fences such as stranded barb wire and wire netting for sheep and goat fences and, in general,

any type of open agricultural fence (break-away wire gaps should be provided on all fences crossing streams or drainage channels).

b) Private and public recreational uses such as golf courses, picnic grounds, parks, wildlife and nature preserves, target ranges, hunting and fishing areas, hiking, bike and horseback riding trails.

c) Residential uses such as lawns, gardens, parking areas, and play areas. Lawn or yard fences such as chain link or wooden privacy fences will not be permitted to cross stream channels or drainage easements unless provisions are made for the unobstructed passage of flood water flows.

d) Other similar uses which are consistent with the provisions of this court order.

SECTION K. RESTRICTED USES OF THE FLOOD HAZARD AREA

- 1) Any development in the flood hazard area not classed as an unrestricted use shall be considered a restricted use and shall require a County Development Permit.
- 2) Agricultural development for which a permit will be required will, for most farm and ranch operations, be limited to residential structures and permanent barns, shops, poultry facilities, and other similar structures which are proposed for construction in the identified flood hazard areas.
- 3) Certain uses of the flood plain may not be appropriate, and the County Administrator may deem it necessary to restrict or prohibit uses that are dangerous to health, safety, or property in times of flood. These uses may include, but are not limited to the following:
 - a) Hospitals, nursing homes, and any other facility where elderly or invalid persons reside.
 - b) Boarding schools, orphanages, and any other facility where young children reside.
 - c) Detention facilities, sanitariums, and any other facility where movements of persons may be restricted.
 - d) Refuge centers, disaster relief centers, disaster shelters, and any other operation which may be utilized during times of emergency.
 - e) Permanent storage of materials or equipment.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The County Engineer (or the Road & Bridge Administrator as acting head of the department when there is no County engineer) is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (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 ordinance.
- 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 the adoption of this ordinance.
- 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 Texas Natural Resource Conservation Commission, prior to any alteration or relocation to 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 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 ordinance 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;
 - j) The relationship of the proposed use to the comprehensive plan for that area.

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 ordinance.

- 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 Federal Floodplain Administrator in the enforcement or administration of this ordinance.
- 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 ordinance.
- 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 ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (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 whom 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

- 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 systems;

- 6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of 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 evaluation 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 at least two (2) feet 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 at least two (2) feet above the base flood elevation 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 or 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 Flood 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 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 of frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - b) All manufactured homes shall be in compliance with Article 5, Section B (1).

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 ordinance.
- 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 previous provisions of Article 5 of this ordinance.
- 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 acre, whichever is the lesser, if not otherwise provided pursuant to Article 3, Section B, or Article 4, Section B(8) of this ordinance.
- 4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

- 5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
- 6) The developer, builder, seller, or agent shall inform in writing, each prospective buyer of subdivision lots located in flood hazard areas that such property is in an identified flood hazard area and that a Development Permit will be required before structure can be placed on the property. The written notice shall also specify all terms and conditions that must be met before a permit will be issued. This written notice shall be signed and acknowledged by the buyer and shall be filed for record in the records of Smith County. A copy of this written notice shall be provided when application is made for a Development Permit.

SECTION D. FLOODWAYS

Floodways – located within areas 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 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.

CERTIFICATION

It is hereby found and declared by Smith 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 the 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 ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, 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:

REVISED VERSION PASSED:


County Judge

September 8, 2008

I, the undersigned, Judy Carnes, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the Smith County Commissioners Court, at a regular meeting duly convened on 8th day of September, 2008.


County Clerk of Smith County

