

Kaufman County Floodplain



Management Court Order

As Adopted: December 13, 2022

Effective: January 1, 2023

Court Order Number: 121322-6

Kaufman County is a member of the Trinity River Common Vision program, meaning that the County subscribes to higher floodplain management standards along the Trinity River Corridor and the East Fork of the Trinity.

FLOODPLAIN MANAGEMENT COURT ORDER

STATE OF TEXAS

COUNTY OF KAUFMAN

WHEREAS, the County adopted floodplain regulations in a Court Order dated January 23, 2006 in order to participate in the National Flood Insurance Program (NFIP) through the Federal Emergency Management Agency (FEMA); and

WHEREAS, the County's current floodplain management regulations, which are based on criteria established by the Federal Emergency Management Agency, govern the type of development that can occur within the County's incorporated and unincorporated floodplain areas;

WHEREAS, under Subchapter 1, Section 16.315 of the Texas Water Code all political subdivisions are authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program; and

WHEREAS, the proposed revisions, which prescribe a process for citing non-compliant development, will help improve compliance with these regulations and thus further protect the public's health, safety and general welfare.

NOW THEREFORE BE IT RESOLVED by the Commissioners Court of Kaufman County that the County's Floodplain Management Regulations are revised by adopting the attached order which shall replace those authorized by the Court Order dated January 23, 2006.

PASSED AND APPROVED this 13th day of December, 2022.

Hal Richards

Hal Richards, County Judge

Mike Hunt

Commissioner Mike Hunt, Pct. 1

Terry Barber

Commissioner Terry Barber, Pct.3

Steve Phillips

Commissioner Steve Phillips, Pct. 2

Ken Cates

Commissioner Ken Cates, Pct. 4

Laura Hughes
Kaufman County Clerk, Laura Hughes



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FLOOD DAMAGE PREVENTION ORDER

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Texas has in Subchapter 1, Section 16.315 of the Texas Water Code delegated the responsibility of local government units to adopt regulations designed to minimize flood losses. Therefore, the Commissioners Court of Kaufman County, Texas, does ordain as follows:

SECTION B. FINDINGS OF ACT

- (1) It is hereby found by the Commissioners Court of Kaufman County, Texas, that severe flooding has occurred in the past within its jurisdiction and is likely to occur in the future.
- (2) The flood hazard areas of Kaufman 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 extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
- (3) 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 flood 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 expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

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

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands; and
- (6) Provide a process for development review that controls the impact of development in Special Flood Hazard Areas and flood-prone areas within Kaufman County's jurisdiction.

ARTICLE 2

DEFINITIONS

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

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

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

APPEAL- means a request for a review of the Floodplain Administrator or his/her designee's interpretation of any provision of these Regulations or a request for a variance.

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

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

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

AREA OF SEPCIAL 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 rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

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

BASE FLOOD ELEVATION - The computed elevation to which floodwater is anticipated to rise during the base flood.

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

BREAK- AWAY- 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.

CERTIFICATE OF APPROVAL - means final approval of projects that meet all requirements of the Kaufman County Floodplain Damage Prevention Regulations and other applicable regulations.

CONDITIONAL LETTER OF MAP AMENDMENT (CLOMA) - means FEMA's comment or official letter on proposed structure or group of structures that upon construction would be located on existing natural ground above the Base flood Elevation on a portion of a legally defined parcel of land that is partially inundated by the base flood.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - means FEMA's comment or official letter on a proposed project that upon construction would affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing effective base flood elevation, the special flood hazard area, or the existing regulatory floodway.

CONDITIONAL LETTER OF MAP REVISION- FILL (CLOMR-F) - means FEMA's comment or official letter on a proposed project that upon construction would result in a modification of the special flood hazard area through the placement of fill outside the existing regulatory floodway.

CONVEYANCE - means the flow of water during the base flood with a velocity that is greater than one foot per second or a depth that is greater than one foot.

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

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

DEVELOPMENT PERMIT- means a permit for the construction of a development.

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

ELEVATION CERTIFICATE - means a document certified by a licensed professional land surveyor used for the purpose of establishing the lowest floor (including basement) elevation of a building. All new construction or substantial improvements to existing buildings in flood hazard areas shall obtain an elevation certificate and provide the necessary information in accordance with the FEMA's (FEMA) National Flood Insurance Program (NFIP) instructions.

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

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

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

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

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

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

FLOOD HAZARD BOUNDARY MAP (FHBM) - means an official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (ie. mudflow) related erosion areas having special hazards have been designated as Zones A, M, and /or E.

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

FLOOD INSURANCE STUDY (FIS) - see Flood Elevation Study

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

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

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

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

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

FLOODWAY - see *Regulatory Floodway*

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

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

HISTORIC STRUCTURE - means and structure that is:

- (1) Listed individually in the National Register of Historic places (a listing maintained by the Department of The Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory or historic places in communities with historic

preservation programs that have been certified either:

- (a) By an approved state program as determined by the Secretary of the Interior or;
- (b) Directly by the Secretary of the Interior in states without approved programs.

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

LETTER OF MAP CHANGE (LOMC) - documents issued by FEMA that revise or amend the flood hazard information shown on the FIRM without requiring the Firm to be physically revised and re-published.

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

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

LEVEE - 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 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 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.

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.

NO RISE CERTIFICATE - means a document certified by a licensed registered professional engineer for the purpose of determining if a project will increase flood heights. An engineering analysis must be conducted before a permit can be issued. The No-rise Certification must be supported by technical data based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

RECREATIONAL VEHICLE - means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

SPECIAL FLOOD HAZARD AREA- see *Area of Special Flood Hazard*.

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

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

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

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

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

VARIANCE - means a grant of relief by a community from the terms of a floodplain management regulation.

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

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

ARTICLE 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDER APPLIES

This order shall apply to all areas of special flood hazard within the jurisdiction of Kaufman 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 the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Kaufman County, Texas, and Incorporated Areas," dated January 12, 2023, with accompanying Flood Insurance Rate Maps (FIRM) dated January 12, 2023, and any revisions thereto are hereby adopted by reference and declared to be a part of this order.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

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

SECTION H. SEVERABILITY

The provisions of these Regulations are severable. If any word, phrase, clause, sentence, section, provision, or part of these Regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, it shall not affect the validity of the remaining portions of these Regulations. It is also hereby declared to be the intent of the Kaufman County Commissioners Court that these Regulations would have been adopted as to the remaining portions, regardless of the invalidity of any part. In the event that any provision of these Regulations might be interpreted in such a way as exceeding the County's authority, such provision should be construed to apply only to the extent authorized by law.

ARTICLE 4

ADMINISTRATION

SECTION A. SCOPE

The Provisions of these Regulations shall apply to all new construction or development, proposed subdivisions and to the construction, alteration, repair, use, location, or maintenance of every building or structure or any appurtenances connected to or attached to such buildings or structures, within the designated area affected by these Regulations.

SECTION B. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The County Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of the order and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION C. RIGHT OF ENTRY

The floodplain administrator, or his duly authorized representative, may enter any building, structure or premises to perform any duties imposed upon him by this article.

SECTION D. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this order;
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding;
- (3) Review, approve or deny all applications for development permits required by adoption of this order;
- (4) Review permits for proposed development to assure that all necessary permits have

been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;

- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation;
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB), 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 Water course 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 (ex. Engineer, Architect, Surveyor), 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 A (I-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 at any point within the community (No Rise Certificate signed by Engineer or Architect);
- (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 A (I-30), AE, AH on the community's FIRM which increases the water surface elevation of the base flood, provided that the community first completes all of the provisions required by Section 65.12 (CLMC – Conditional Letter of Map Change);
- (11) The Floodplain Administrator shall appoint a qualified person to review all permit applications and approve any such permits in the absence of the administrator; and
- (12) The designee of the Floodplain Administrator for assistance with enforcement actions and issuance of citations to violators of these Regulations may be a licensed peace officer.

SECTION E. 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 4, Section D (1);
 - (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 D (1); and,
 - (f) A site plan showing the proposed development, the proposed grading and drainage, and the effect of the site on adjacent developments designed by a registered professional engineer in the State of Texas.
- (2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all the provisions of this order and the following relevant factors:
 - (a) The danger to life and property due to flooding or erosion damage;
 - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual Owner;
 - (c) The danger that materials may be swept onto other lands to the injury of others;
 - (d) The compatibility of the proposed use with existing and anticipated development;
 - (e) The safety of access to the property in times of flood for ordinary and emergency vehicles;

- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (g) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - (h) The necessity to the facility of a waterfront location, where applicable;
 - (i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and,
 - (j) The relationship of the proposed use to the comprehensive plan for that area.
- (3) Pursuant to Sections 16.311 et seq. of the Texas Water Code, Kaufman County will collect reasonable fees, as set by the Commissioners Court, to cover the cost of administering the local floodplain management program.
 - (4) The Floodplain Administrator may require the submission of additional information, drawings, specifications or documents if he/she is unable to determine whether a permit should be issued from the information submitted.
 - (5) Developments may require permits from other local, state, and federal agencies. The applicant is responsible for compliance with all applicable regulations and permit requirements and may be required to provide documentation that this provision has been met.

SECTION F. VARIANCE PROCEDURES

- (1) A person or persons desiring to obtain a variance from any requirement of these regulations or applicable statute must submit a detailed Request for Variance to the Kaufman County Development Support Committee.
- (2) The request must cite the specific regulation provision and/or statute from which the variance is sought and must include detailed reasons for the Variance.
- (3) The Kaufman County Development Support Committee shall hear and render judgment on requests for variances from the requirements of this order.
- (4) The Kaufman County Commissioners Court shall hear and render judgment on an appeal only after a judgement has been rendered by the Development Support Committee.

- (5) Any person or persons aggrieved by the decision of the Kaufman County Commissioners Court may appeal such decision in the courts of competent jurisdiction. The appeal under this section must be filed within (10) business days from the date of the Kaufman County Commissioners Court order in which the decision is rendered.
- (6) 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.
- (7) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this order. However, such variances for repair or rehabilitation of historic structures shall be based 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.
- (8) Variances may be issued for new construction and substantial improvements to be erected on a lot of ½ 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 E (2) of this Article have been fully considered. As the lot size increases beyond the ½ acre, the technical justification required for issuing the variance increases.
- (9) Upon consideration of the factors noted above and the intent of this order, the Kaufman County Development Support Committee 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).
- (10) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result, including but not limited to, the base flood water surface elevation.
- (11) 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.
- (12) Prerequisites for granting variances:
 - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - (b) Variances shall only be issued upon:
 - (i) showing a good and sufficient cause;

- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - (c) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (13) 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 F (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.

SECTION G. ENFORCEMENT AND PENALTIES FOR NONCOMPLIANCE

- (1) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this order and other applicable regulations.
- (2) Violation of the provisions of this order by failure to comply with any of its requirements (including violations for conditions and safeguards established in connection with conditions) shall be punishable by the following:
 - a. Criminal Penalty: Pursuant to Sections 16.3221 (g) (2) (a) et seq. of the Texas Water Code, any violation of this order is a Class C misdemeanor. Each violation of this order and each day of a continuing violation is a separate offense.
 - b. Civil Penalty: Pursuant to Sections 16.322 (g) (2) (b) et seq. of the Texas Water Code, any person who violates this order is subject to a civil penalty of not more than \$100 for each act of violation for each day of violation.
 - c. Civil Suit for Injunction: Pursuant to Sections 16.323 (g) (2) (a) et seq. of the Texas Water Code, if it appears that a person has violated, is violating, or is threatening to violate this order, Kaufman County may institute a civil suit in the appropriate court for:
 - 1. Injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions;
 - 2. The assessment and recovery of a civil penalty;

3. Both the injunctive relief and a civil penalty; and/or
 4. Costs and expenses involved in the case.
- (3) Nothing contained herein shall prevent Kaufman County from taking other lawful action as is necessary to prevent or remedy any violation.
 - (4) Upon an initial discovery that a structure or land is in violation of these Regulations, the Floodplain Administrator and/or his designee may issue a Stop Work Order to the owner, lessee, occupant, agent and/or person in charge of the premises (collectively, the "violator"). To remove the stop work order, the violator must either:
 - a. Appeal the violation within the first 10 days by submitting appropriate data in writing to the Floodplain Administrator that proves that either the structure is in compliance with these Regulations or is not actually located within the floodplain;
 - b. Restore the land to its prior condition and/or remove the illegal structure and/or fill from the floodplain; or
 - c. Bring the violation into compliance with these Regulations by obtaining a Development Permit as described in Article 4, Section E of these Regulations.
 - (5) If after 30 days from issuance of a Stop Work Order, the violation still exists:
 - a. A citation may be issued pursuant to the Texas Water Code, Section 16.3221, *et Seq.* and a second warning to restore the land or remove the illegal structure and /or fill within thirty (30) days may be issued by the Floodplain Administrator and/or his/her designee to the violator; and/or
 - b. The Floodplain Administrator and/or his/her designee may inform the Criminal District Attorney of the violation/violations. The Criminal District Attorney may seek legal remedies pursuant to Sections 16.322, 16.3221, 16.323, *et seq.* of the Texas Water Code, including seeking an injunction against the violator.
 - (6) If an application for a Floodplain Development Permit is submitted to, but not approved by, the Floodplain Administrator, the violator may request a variance from these Regulations under Article 4, Section F. This request must be submitted in writing to the Development Support Committee within (10) days of written notification from the Floodplain Administrator that the Floodplain Development Permit has been denied.
 - (7) If an application for a Floodplain Development Permit is submitted to, but not approved and/or a variance is requested but not granted by the Development Support Committee:
 - a. A second warning letter by the Floodplain Administrator and/or his/her designee may

be issued to the violator including notice to restore the land or remove the illegal structure and/or fill from the floodplain with sixty (60) days; and/or

- b. The Floodplain Administrator and/or his/her designee may inform the Criminal District Attorney of the continued violation/violations. The Criminal District Attorney may seek legal remedies pursuant to Sections 16.322, 16.3221, 16.323, *et seq.* of the Texas Water Code, including but not limited to seeking an injunction against the violator.
- (8) A violator, as described in Article 4, Section G of this Order, will be considered in continuing violation of these Regulations if the violator removes a structure and /or fill from one location within the floodplain in Kaufman County and places the structure and /or fill in a non-compliant manner within another Kaufman County floodplain location within one year of the initial violation.
 - (9) If, in the sole discretion of the Floodplain Administrator or his/her designee, the violation or threatened violation, is of such character to require immediate action, the Floodplain Administrator may notify the Criminal District Attorney and request that the Criminal District Attorney take whatever action necessary to remedy the violation pursuant to Sections 16.322, 16.3221, 16.323, *et seq.* of the Texas Water Code, including but not limited to filing suit to enjoin the violation or threatened violation.

SECTION H. FORMS, RECORDS, AND FEES

- (1) The floodplain Administrator shall maintain a record of all such information in accordance with Article 4, Section D (1) of these Regulations.
- (2) The Kaufman County Development Services Department must maintain all application for, file copies, and approved applications for permits for a retention Period of (3) years.
- (3) Forms to be used in the administration of these Regulations shall be promulgated by the Kaufman County Development Services Department.
- (4) Pursuant to Section 16.315(16) of the Texas Water Code, Kaufman County will collect reasonable fees, as set by the Commissioners Court, to cover the cost of administering the local Floodplain management Program. A violator of these Regulations shall bear all costs of effecting compliance. Pursuant to Section 16.324 of the Texas Water Code, Kaufman County may set a reasonable fee for the county's issuance of a permit authorized by these Regulations for which a fee is not specifically prescribed.

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 Article 3, Section B; Article 4, Section D (5), (8-10); Article 5, Section C; the following provisions are required:

- (1) Residential Construction – new construction and substantial improvements on sites that contain a Flood Zone; as established in Article 3, Section B; must:
 - a. Constructed using methods and practices which minimize flood damage;
 - b. Shall have the lowest floor (including basement), elevated a minimum of two feet above a base flood elevation as specified on FIRM;
 1. when not specified by FIRM – determined by engineer; or
 2. established by Floodplain Administer when provided with survey showing flood delineation and highest adjacent grade of structure location
 - c. 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 5, Section C is satisfied; and
 - d. Elevated and designed to resist flotation, collapse, or lateral movement.

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

- (3) Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings on separate walls having a total net area of not less than 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; and
 - 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. ALL manufactured homes placed and/or substantially improved within Flood Hazard Areas on the community's FIRM shall be:
 1. Installed using methods and practices which minimize flood damage;
 2. Securely anchored to foundation system 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; and
 3. Meet or exceed all applicable State and local anchoring requirements for resisting wind forces.

- b. Manufactured Homes placed or substantially improved within Flood Zones A on the community's FIRM ; shall:
 1. Meet requirements of Article 5, Section B(4)(a); and
 2. Elevated to the lowest floor of the manufactured home is a minimum of (2') two feet above the base flood elevation established by Engineer, or Floodplain Administrator when provided with survey showing flood delineation and highest adjacent grade of structure location.

- c. Manufacture Homes placed or substantially improved within Flood Zone A(1-30), AH, and AE on the community's FIRM; as established in Article 3, Section B; (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 shall:
 1. Meet requirements of Article 5, Section B(4)(a); and
 2. Elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of two (2) feet above the base flood elevation established by FIRM (Elevation Certificate is Required to document compliance)

- d. Manufacture Homes placed or substantially improved within Flood Zone A(1-30), AH, and AE on the community's FIRM; as established in Article 3, Section B; on sites in an existing manufactured home park or subdivision that are not subject to the provisions of Article 5, Section B(4)(b) shall:
 1. Meet requirements of Article 5, Section B(4)(a); and
 2. Chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36" in height above grade

- (5) Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A(1-30), AH and AE on the community's FIRM either:
 - a. be on the site fewer than 180 consecutive days; or
 - b. be fully licensed and ready for highway use; or
 - c. Meet the permit requirements of Article 4, Sections E (1-2), 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 wheels or jacking system, is attached to the site only be quick disconnect type utilities and security devices and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

- (1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Sections B, C and D of this order.
- (2) All subdivision proposals shall include a H&H study for the fully developed condition of the subdivision, including output from any Water treatment or wastewater treatment plants that are proposed for the development. The study shall identify the rise in water surface elevation, increase or decrease in velocity of flow, increase or decrease of flow rate, a statement describing the state of scour or sedimentation with respect to the velocity of flow changes. The bounds of the study shall include the property of the development, any adjacent properties, and 2000 yards upstream and downstream of the development. Measurements for the bounds shall start at the property lines.
- (3) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development permit requirements of Article 3, Section C; Article 4, Section E; and the provisions of Article 5 of this order.
- (4) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section C or Article 4, Section D (8) of this order.
- (5) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (6) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

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

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply;

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- (2) All new construction and substantial improvements of non-residential structures;
 - a. have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - b. together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of Article 4, Section E are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

SECTION E. FLOODWAYS

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

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) {above} is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

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

SECTION F. STANDARDS FOR THE TRINITY RIVER CORRIDOR AND THE EAST FORK OF THE TRINITY AND THE CORRIDOR DEVELOPMENT CERTIFICATE

Kaufman County is a member of the Trinity River Common Vision program, meaning that the County subscribes to higher floodplain management standards along the Trinity River Corridor and the East Fork of the Trinity. Therefore, if the proposed project is located in the Special Flood Hazard Area along the Trinity River Corridor or the East Fork of the Trinity, a Corridor Development Certificate (CDC) is necessary. The application requires the study of the stream (hydrology and hydraulics analysis) using future flow rates (year 2055). Additionally, the proposed project will need to meet the following criteria:

- (1) No rise in the one hundred (100) year elevation or the Standard Project Flood for the proposed condition will be allowed;
- (2) No loss in storage capacity; and
- (3) Alterations in the floodplain may not create or increase an erosive water velocity on or off-site.

The Standard Project Flood (SPF) is the flood that may be expected from the most severe combination of meteorological and hydrologic conditions that are considered to be reasonably characteristic of geographical region involved, excluding rare combinations.

The CDC Manual can be found online at www.nctcog.org.

The proposed development will need to be designed in accordance with the CDC Manual dated July 2017 and any revisions thereto, which are hereby adopted and incorporated herein by reference and declared to be a part of these Regulations.

CERTIFICATION

It is hereby found and declared by Kaufman 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 a 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: _____

PASSED: _____ **Date** _____

I, the undersigned, Laura Hughes, do hereby certify that the above is a true and correct copy of an Order by the Kaufman County Commissioners Court at a regular meeting on the _____ day of _____, 2022.

Laura Hughes, Kaufman County Clerk