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Item – 26
August 22, 2023
Public Works Department

The Court hereby ordered and approved a motion approving updates to the Bexar County Floodplain Damage Prevention Court Order passed July 11, 2023 correcting the Mean Sea Level definition datum from 192 to 1988 and adding Standard Section 1316 Forms. (Record)

A motion was presented by County Commissioner Justin Rodriguez, duly seconded by County Commissioner Grant Moody, which motion was voted on as follows: Commissioners Clay-Flores, Rodriguez, Moody, Calvert, and Judge Sakai voting "Aye".

Item Number: 26
(for Comm Ct use only)

AGENDA COORDINATION FORM
Bexar County Commissioners Court

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Type of Agenda Item (Choose one): Ceremonial ☐ Special Presentation ☐ Time Certain ☐ Consent ☒ Individual ☐

Sponsoring Office/Department: Public Works Recipient Agency / Individual Name:

Contact Person: Robert Brach PE Phone Number: 5-1243 Court Date Requested: August 22, 2023

Presenter: David Wegmann PE CFM Phone Number: 5-3816 Deadline for Action: August 22, 2023

Audio / Visual Presentation: Y ☐ N ☒ PowerPoint? Y ☐ N ☒ ADA Assistance Required (type):

Official/Department Head Signature: DaRWeg

Small, Minority, Women-owned Business Enterprise (SMWBE): Impact: Y ☐ N ☒

CAPTION:

Approve updates to the Bexar County Floodplain Damage Prevention Court Order passed July 11, 2023 correcting the Mean Sea Level definition datum from 192 to 1988 and adding Standard Section 1316 Forms.

ESTIMATED PRESENTATION TIME: _____

BACKGROUND:

FEMA reviewed the Court Order adopted on July 11, 2023 and noted that the datum in the Mean Sea Level definition provided the year 192 instead of 1988. This year was corrected numerous times during the draft reviews but still showed up incorrectly in the final draft.

The Section 1316 Declaration and Section 1316 Rescission Forms are referenced on the Appendix A cover sheet but did not make the last draft. The forms are being added in this update.

RECOMMENDED MOTION:

Approve updates to the Bexar County Floodplain Damage Prevention Court Order passed July 11, 2023 correcting the Mean Sea Level definition datum from 192 to 1988 and adding Standard Section 1316 Forms.

FISCAL ASSESSMENT: APPLICABLE Yes ☐ No ☒ Fiscal Note ☐

1	Is this a revenue or expense?	Revenue ☐	Expense ☐
2	Dollar amount of revenue or expense associated with item?		
3	Is this a budgeted revenue or expense?	Yes ☐	No ☐
4	Does this item require additional staff?	Yes ☐	No ☐
5	Will this increase your current budget?	Yes ☐	No ☐
6	Impact on future Budget? If Yes, Explain in Comments.	Yes ☐	No ☐
7	Current End-of-Year Expenditure Estimate-for impacted Object Code(s)?		
8	If an expense, what is the current Object Code budget amount?		
9	If an expense, are sufficient funds currently budgeted in the Object Code?	Yes ☐	No ☐
10	If an expense, are sufficient funds currently budgeted in the Appropriation	Yes ☐	No ☐
11	List impacted offices or departments or note if countywide:		

Item Number: _____
(for Comm Ct use only)

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FISCAL ASSESSMENT: APPLICABLE Yes ☐ No ☒ Fiscal Note ☐

1	Is this a revenue or expense?	Revenue ☐	Expense ☐
2	Dollar amount of revenue or expense associated with item?	$0.00	
3	Is this a budgeted revenue or expense?	Yes ☐	No ☐
4	Does this item require additional staff?	Yes ☐	No ☐
5	Will this increase your current budget?	Yes ☐	No ☐
6	Impact on future Budget? If Yes, Explain in Comments.	Yes ☐	No ☐
7	Current End-of-Year Expenditure Estimate-for impacted Object Code(s)?	$0.00	
8	If an expense, what is the current Object Code budget amount?	N/A	
9	If an expense, are sufficient funds currently budgeted in the Object Code?	Yes ☐	No ☐
10	If an expense, are sufficient funds currently budgeted in the Appropriation	Yes ☐	No ☐
11	List impacted offices or departments or note if countywide:	Public Works Department	
12	Fund number:	N/A	
13	Org number and Agency Code:	N/A	
14	Object Code number:	N/A	
15	If this is a grant, what is the estimated amount of program income?	$0.00	
16	If this is a grant, what is the amount of Grantor funding?	$0.00	
17	If this is a grant, what is the required County cash match?	$0.00	
18	If this is a grant, what is the required County in-kind/allocation match?	$0.00	
19	If this is a grant, was item approved by the Grant Review Committee?	Yes ☐	No ☐
20	Comments: There is no fiscal impact associated with the approval of this item.		
21	Coordinated by: Ed Valerio	Verified By: Daniel Franco (6/13/2023)	

BEXAR COUNTY COMMISSIONERS COURT
PUBLIC WORKS DEPARTMENT
Development Services

COURT ORDER

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ORDER authorizing the Approve updates to the Bexar County Floodplain Damage Prevention Court Order passed July 11, 2023, correcting the Mean Sea Level definition datum from 192 to 1988 and adding Standard Section 1316 Forms

Consent Agenda Item #26

PASSED THIS 22ND DAY OF AUGUST, 2023

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FLOOD DAMAGE PREVENTION COURT ORDER

BEXAR COUNTY, TEXAS

COURT DATE: JULY 11, 2023
EFFECTIVE DATE: JULY 19, 2023
AMENDED: AUGUST 22, 2023

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FLOOD DAMAGE PREVENTION COURT ORDER

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

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

SECTION B. FINDINGS OF FACT

(1) The flood hazard areas of Bexar County, Texas are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

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

SECTION C. STATEMENT OF PURPOSE

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

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

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

(4) Minimize prolonged business interruptions;

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

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

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

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SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this Court 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) Special Flood Hazard Areas and Floodways will be reviewed in accordance with Article 4 Section B (8) and (9);

(6) Require analysis of contributing drainage areas exceeding 100 acres not part of a FEMA designated floodplain for subdivision proposals;

(7) Require the use of Best Available Data for all engineered flood study submittals;

(8) Require all engineered flood study submittals to follow the hydrologic and hydraulic modeling guidelines referenced in Appendix B;

(9) Require LOMR submittals that, upon completion of construction that affects the hydrologic or hydraulic characteristics of a flooding source and thus results in the modification of the exiting regulatory floodway, effective base flood elevations, or the SFHA have a FEMA approved CLOMR proceed it;

(10) Require LOMR submittals for when existing special flood hazard areas are changed due to new technical data or map error;

(11) 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 Court Order shall be interpreted to give them the meaning they have in common usage and to give this Court 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's interpretation of any provision of this Court Order or request for a variance.

APPEAL BOARD – means the County Commissioners Court of Bexar County, Texas in regular or special session.

APPLICANT – means any person, firm, corporation, or agent who is required and/or has applied for a development permit. This does not necessarily mean that the "APPLICANT" was approved or disapproved.

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

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

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

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

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

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

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

BASIC DEVELOPMENT "APPLICATION/PERMIT" – means a form used by the Environmental Services Department to determine if a proposed development, utilizing a private sewerage facility, is located in a special flood hazard zone.

BEST AVAILABLE DATA – means existing flood hazard information adopted by a community and reflected on the effective FIRM, DFIRM, or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source accepted by Bexar County.

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

BUILDING - means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home or RV that is stationary for more than 180 days. The terms "structure" and "building" are interchangeable within these regulations.

COMMUNITY – means any State or area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or Alaska Native village or authorized native organization, which has authority to adopt and enforce flood plain management regulations for the areas within its jurisdiction.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) – means FEMA's comment or official letter on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). A CLOMR will be submitted for FEMA approval for all proposed physical changes to the floodplain that will result in a change to the floodplain boundary.

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.

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

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

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

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

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

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – means the agency responsible for coordinating the Federal response to floods, earthquakes, hurricanes, and other natural or man-made disasters and providing disaster assistance to States, communities and individuals. FEMA is responsible for administering the NFIP and administering programs that provide assistance for mitigation future damages from natural hazards.

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 using best available data.

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 ADMINISTRATOR – means the permitting official or his/her designated agent appointed to administer and implement the provisions of this Court Order.

FLOODPLAIN DEVELOPMENT "PERMIT" – means a document issued by the Floodplain Administrator, which establishes the conditions under which development, within the floodplain may occur. Evidence of the Floodplain Administrator's approval.

FLOOD LEVEL – means the flow, velocity and water surface elevation at the boundary limits of the flood study.

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 Court Order, subdivision regulations, building codes, health regulations, special purpose Court Order (such as a floodplain Court Order, grading Court Order and erosion control Court Order) 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.

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FLOOD STUDY – means a scientific analysis of a given streambed, prepared by the registered professional engineer using best available data to determine the estimated water surface elevations for a given storm frequency (usually 100-year). Cross-sections of the streambed are required to determine the area and wetted perimeter during a storm. Roughness coefficients and hydrological discharges are also used to calculate the carrying capacity of the streambed.

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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.

HABITABLE FLOOR – means any floor usable for the following purposes: which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor."

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

HISTORIC STRUCTURE - means any structure that is:

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

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

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

(4) Individually listed on a local inventory 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 REVISION (LOMR) - means FEMA's modification to an effective FIRM or flood boundary and floodway map or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations, or the SFHA. The LOMR officially revises the FIRM or flood boundary and floodway map, and sometimes the flood insurance study report and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, floodplain boundary and floodway map or the flood insurance study report. LOMRs submitted upon completion of construction that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the exiting regulatory floodway, effective base flood elevations, or the SFHA will require a FEMA approved CLOMR.

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

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

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

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

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. This includes a single lot divided into two (2) or more leasing spaces.

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

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – means the program of flood insurance coverage and floodplain management administered under the Act and applicable federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

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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.

NON-RESIDENTIAL BUILDING – means a commercial or mixed-use building where the primary use is commercial or non-habitational.

NOTICE OF VIOLATION (NOV) – means a written letter from Bexar County Public Works informing the owner, lessee, occupant, agent or person in charge of the premises (collectively, the "violator") of non-compliance with these Regulations.

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

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

RESIDENTIAL BUILDING – means a non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as single family, multi-family, or other residential building.

RESIDENTIAL CONSTRUCTION – means the construction of structures whose intended or actual use is for domestic habitation to include manufactured homes, single and multi-family structures.

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*

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

START OF CONSTRUCTION (Land Development) – means the delivery of equipment or materials to a site, the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STOP WORK ORDER (SWO) – means a notice issued by Bexar County Public Works informing the operator, owner, entity, or community association of non-compliance with these regulations and requiring immediate cessation of all activity except that which is necessary to bring the site into compliance.

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

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

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SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

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

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

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ARTICLE 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS COURT ORDER APPLIES

The Court Order shall apply to all areas of special flood hazard within the jurisdiction of the unincorporated areas of Bexar County, Texas.

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for Bexar County, Texas and Incorporated Areas," dated July 19, 2023, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated July 19, 2023 and any revisions thereto are hereby adopted by reference and declared to be a part of this Court Order.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required when developing property that is located in or is within 100 ft of a "Special Flood Hazard Area," to ensure conformance with the provisions of this Court Order.

SECTION D. COMPLIANCE

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

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This Court Order is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Court Order and another Court Order, 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 Court Order, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Court 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 Court Order does not guarantee that land or structures outside the areas of special flood hazards will be free from flooding or flood damages. There is also no guarantee that land or structures that received permits within special flood hazard areas will be free from flooding or flood damages. This Court 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 Court Order or any administrative decision lawfully made hereunder.

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ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Director of Public Works\County Engineer or his or her designated agent is hereby appointed the Floodplain Administrator to administer and implement the provisions of this Court Order and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

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

(4) Review permit applications for proposed development to assure that all necessary licenses, approvals, or 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 based on scientific analysis.

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

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

(8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer the provisions of Article 5. If the base flood information available is not acceptable to the Floodplain Administrator, the applicant shall be required to scientifically determine these elevations through an approved flood study prepared by a registered professional engineer in accordance with Article 5 of this Court Order and approved by the Floodplain Administrator.

(9) The Floodplain Administrator shall require that no construction, substantial improvement, or other development (including fill) be permitted in or within 100 feet of the Special Flood Hazard Areas on the Bexar County FIRMs, unless it is demonstrated that the cumulative effect of the proposed development, which combined with all the existing or anticipated future development, will not increase the BFEs at any point outside the property which is included in the permit and owned by the applicant.

(10) The Floodplain Administrator shall appoint a qualified person to review all permit applications and to determine whether to approve any such permits in the absence of the Floodplain Administrator.

(11) 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 C. PERMIT PROCEDURES

(1) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by the applicant and may include, but not be limited to, plans 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 Court 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;

(j) The relationship of the proposed use to the comprehensive plan for the area;

(k) The comments of other agencies which have related interests with respect to drainage easements, flood control dams, right-of-way, etc. Some examples of agencies are the State Department of Highways and Public Transportation, San Antonio River Authority, San Antonio Metropolitan Health District, the US Corps of Engineers, Texas Water Development Board, Joint Base San Antonio, incorporated cities, adjacent counties, etc. Watershed with sink holes located in the Edwards Aquifer Recharge Zone shall be cleared with the Texas Commission on Environmental Services and the Floodplain Administrator prior to development.

(l) In the City of San Antonio Military Protection Areas, an issued certificate of compliance by the City of San Antonio.

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

(4) No construction activity that will result in a change in the alignment, width, or elevation of a FEMA designated or corrected effective 1% AC current conditions floodplain is allowed prior to a Conditional Letter of Map Revision (CLOMR) being endorsed by the community and submitted to FEMA. Additionally, no recorded subdivision proposals with easements that are based on revisions to a corrected effective 1% AC current conditions floodplain shall be approved prior to a CLOMR being endorsed by the community and submitted to FEMA.

(5) No construction activity is allowed in a FEMA designated one percent annual chance (1% AC) floodplain or on property containing a FEMA designated 1% AC floodplain, prior to issuance of a Floodplain Development Permit or issuance of any site development (or other applicable) building permit.

(6) Excluding capital improvement projects managed by public agency, no construction activity that will result in a change in the alignment, width, or elevation of a FEMA designated floodplain is allowed prior to a CLOMR being endorsed by the community and submitted to FEMA.

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 Court Order.

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

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

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

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

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

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

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

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

(10) Prerequisites for granting variances:

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

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

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

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

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SECTION E. PERFORMANCE GUARANTEES

(1) For all proposed drainage improvements in the special flood hazard areas, a construction bond, letter of credit, or an escrow account using the current Bexar County formatted document shall be provided to the Floodplain Administrator prior to issuance of the Floodplain Development "Permit". The construction estimate for this purpose will be prepared by the applicant and approved by the Floodplain Administrator and where required, to include the cost for preparation of floodplain study materials, as built documents, and application fee needed for LOMR review and approval by FEMA after construction is complete.

(a) For Developments with Subdivision Proposals outside City of San Antonio ETJ, applicants/developers must do the following.

(i) The performance guarantee shall be submitted with the Floodplain Development Permit Application.

(ii) The subdivision proposal shall be recorded immediately following the acceptance of Commissioners Court, to establish the drainage easements.

(iii) The developer shall complete such improvements and have them approved by the Public Works Director/County Engineer, within three (3) years from the date of approval of the floodplain development permit or Commissioners Court Approval whichever is later.

(b) For Developments with Subdivision Proposals inside City of San Antonio ETJ, applicants/developers must do the following.

(i) Provide confirmation that the performance guarantee has been submitted and approved by the City of San Antonio.

(ii) The performance guarantee to cover the cost of the preparation of floodplain study materials, as built documents, and application fee needed for LOMR review and approval by FEMA after construction is complete shall be submitted with the Floodplain Development Permit Application.

(iii) The subdivision proposals shall be recorded to establish the drainage easements.

(iv) The developer shall complete such improvements and have them approved by the Public Works Director/County Engineer, within three (3) years from the date of approval of the floodplain development permit or Commissioners Court Approval whichever is later.

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(c) For Developments without Subdivision Proposals, applicants/developers must do the following.

(i) The performance guarantee shall be submitted with the Floodplain Development Permit Application.

(ii) The dedication of drainage easement(s) shall be recorded, with the County Clerk Office for the purposes of establishing the drainage easement(s).

(iii) If the construction of site/drainage improvements have not been properly completed within the time frame prescribed by this Court Order, the Floodplain Administrator may declare this situation as a violation to this Court Order and may act in accordance with this ARTICLE 4, SECTION I.

SECTION F. DURATION OF PERMITS

(1) Permits issued under this Court Order coupled with other Bexar County Permits (e.g. On Site Sewage Facility, Storm Water Quality, Right of Way, and Building Permit) shall terminate with the cessation of all coupled Bexar County permits.

(2) Permits issued with performance guarantees under this Court Order not coupled with other Bexar County Permits shall expire when the performance guarantee expires.

(3) All other permits issued under this Court Order which do not require performance guarantees shall expire six (6) months after being signed by the Floodplain Administrator.

SECTION G. REVOCATION OF PERMITS

(1) The Floodplain Administrator may revoke a permit or approval issued under the provisions of this Court Order, in cases where there has been any false statement or misrepresentation as to a material fact in the application or plans upon which the permit or approval was based.

(2) The Floodplain Administrator may revoke the permit or approval by giving the permit holder written notice to this effect. This notice shall be sent by certified mail or e-mail to the address shown on the permit or approval or delivered in hand to the holder.

SECTION H. RIGHT OF ENTRY

The Floodplain Administrator, or the duly authorized representative, may enter any building, structures, or property to perform any duties imposed by this Court Order.

SECTION I. ENFORCEMENT: PENALTIES FOR NON-COMPLIANCE

(1) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these Regulations and other applicable regulations and Chapter 16, subchapter I of the Texas Water Code.

(2) Violations of the provisions of these Regulations, other applicable regulations, or Chapter 16, subchapter I of the Texas Water Code by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be punishable by the following:

a. Criminal Penalty: Pursuant to Section 16.3221, *et seq.* of the Texas Water Code, any violation of Chapter 16, subchapter I of the Water Code is a Class C misdemeanor. Each violation of Chapter 16, subchapter I of the Water Code and each day of a continuing violation is a separate offense.

b. Civil Penalty: Pursuant to Section 16.322, *et seq.* of the Texas Water Code, a person who violates these Regulations, a rule adopted, or order issued, is subject to a civil penalty of not more than $100 for each act of violation and for each day of violation.

c. Civil Suit for Injunction: Pursuant to Section 16.323, *et seq.* of the Texas Water Code, if it appears that a person has violated, is violating, or is threatening to violate these Regulations or Chapter 16, subchapter I of the Water Code, a political subdivision may institute a civil suit in the appropriate court for:

i. 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 pre-existing conditions;

ii. The assessment and recovery of the civil penalty provided by Section 16.322 of the Texas Water Code; or

iii. Both the injunctive relief and the civil penalty.

iv. Costs and expenses involved in the case.

d. Denial of Flood Insurance Coverage: Pursuant to 44 CFR 61.5 and 44 CFR 73.3, no new flood insurance shall be provided for any property which the Federal Insurance Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas. Bexar County may submit a declaration to the Federal Insurance Administrator for the denial of insurance of anyone deemed in violation of State or local laws, regulations, ordinances, or Court Orders.

(3) Nothing contained herein shall prevent Bexar County from taking other lawful action as is necessary to prevent or remedy any violation.

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(4) Upon an initial discovery that a structure or land is in violation of these Regulations, the Floodplain Administrator or their 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 ten (10) business days by submitting appropriate data in writing to the Floodplain Administrator that proves that either the structure or land is in compliance with these Regulations or Water Code or is not actually located within the floodplain;

b. Restore the land to its prior conditions 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 Permit as described in Article 4, Section C, of these Regulations.

(5) If after thirty (30) days from issuance of a Stop Work Order, the violations still exists, no appeal has been made, and the violator has not applied for a Permit:

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 their designee to the violator.

b. If a violator has not complied with the Stop Work Order after thirty (30) days, the Floodplain Administrator and/or their designee may inform the Criminal District Attorney of the violation(s). 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 appeal under Article 4, Section I (4) (a) of these Regulations is made to and subsequently denied by the Floodplain Administrator and/or their designee:

a. A second warning letter from the Floodplain Administrator and/or their designee may be issued to the violator including notice to restore the land or remove the illegal structure and/or fill from the floodplain within thirty (30) days.

b. If the violator has not complied with the second warning after thirty (30) days, the Floodplain Administrator and/or their designee may inform the Criminal District Attorney. 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.

(7) If an application for a Permit is submitted and denied by the Floodplain Administrator, the violator may request a variance from these Regulations from the Appeal Board under Article 4, Section D of these Regulations. This variance request must be submitted in writing to the Floodplain Administrator within ten (10) business days of written notification from the Floodplain Administrator and/or their designee that the Permit has been denied.

(8) If an application for a Permit is submitted and denied by the Floodplain Administrator and/or their designee, then the following may happen:

a. A second warning letter may be issued by the Floodplain Administrator and/or their designee to the violator including notice to restore the land or remove the illegal structure and/or fill from the floodplain within thirty (30) days.

b. If the violator has not complied with the second warning after thirty (30) days, the Floodplain Administrator and/or their designee may inform the Criminal District Attorney. 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.

(9) If a variance is requested, but not granted by the Appeal Board, then the following may happen:

a. A second warning letter by the Floodplain Administrator and/or their designee may be issued to the violator including notice to restore the land or remove the illegal structure and/or fill from the floodplain within thirty (30) days.

b. If the violator has not complied with the second warning after thirty (30) days, the Floodplain Administrator and/or their designee may inform the Criminal District Attorney. 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.

(10) If a Permit is granted, but the violation is not brought into compliance before the Permit Expires, then the following may happen:

a. A warning letter may be issued by the Floodplain Administrator and/or their designee to the violator including notice to either restore the land, remove the illegal structure and/or fill from the floodplain or to submit a satisfactorily complete application for another Development Permit within thirty (30) days.

b. If, after the aforementioned thirty (30) days, the violator has not restored the land, removed the illegal structure and/or fill from the floodplain, or submitted a satisfactorily complete application for another Development Permit, 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.

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(11) A violator, as described in Article 4, Section I (4) of these Regulations, 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 Bexar County and places the structure and/or fill in a non-compliant manner within another Bexar County floodplain location within one year of the initial violation.

(12) If, in the sole discretion of the Floodplain Administrator or their designee, the violation or threatened violation, is of such a character to require immediate action, the Floodplain Administrator may notify the Criminal District Attorney and request that the Criminal District Attorney take whatever action is 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 J. FEES

Located within Appendix A of this Order, Bexar County Commissioners Court shall set a reasonable fee to defray the cost of administering and enforcing these Regulations. Projects funded wholly or in part by Bexar County will be exempt from this fee.

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ARTICLE 5

PROVISIONS FOR FLOOD HAZARD REDUCTION

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SECTION A. GENERAL STANDARDS

In all areas of special flood hazards, the following provisions are required for all new construction, substantial improvements or storage of materials:

(1) All new construction, substantial improvements or storage of items for display or sale 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, substantial improvements or storage of materials 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) No construction, waste materials, or structures shall be placed in existing lows that will block or alter flow limits of existing natural drainage or placed within the limits of existing floodplain;

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

(7) 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,

(8) On-site waste disposal systems shall be in conformance with 30 TAC 285.31 (c) (2).

SECTION B. SPECIFIC STANDARDS

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

(1) **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to a minimum of one (1) foot above the current effective or ultimate base flood elevation, whichever is greater. 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 have the lowest floor (including basement) elevated or floodproofed to a minimum of one (1) foot above the current effective or ultimate base flood level, whichever is greater. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

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

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

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

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

(4) **Manufactured Homes** -

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

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

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

(i) The lowest floor of the manufactured home is elevated to a minimum of one (1) foot above the current effective or ultimate base flood elevation, whichever is greater, or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either

(a) Be on the site for fewer than 180 consecutive days, or

(b) Be fully licensed and ready for highway use, or

(c) Meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

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

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

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

(4) Base flood elevation data shall be generated for subdivision proposals that are located in or is within 100 feet of a mapped FEMA floodplain or is within 100 acre contributing drainage area, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B (8) of this Court 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 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

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

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

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

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

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

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

SECTION E. FLOODWAYS

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

(1) The Floodplain Administrator shall require that no construction, Substantial Improvement, or other Development (including fill) be permitted in or within 100 feet the special flood hazard areas on the Bexar County FIRMs, unless it is demonstrated that the cumulative effect of the proposed development, which combined with all the existing or anticipated future development, would not result in any increase in Flood Levels within the community during the occurrence of the base flood discharge.

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

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

SECTION F. SEVERABILITY

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

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SECTION H. CERTIFICATION OF ADOPTION

NOW, THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF BEXAR COUNTY, TEXAS THAT: The Flood Damage Prevention Court Order regulations proposed are hereby adopted this 22 day of August 2023

Hon. Peter Sakai, Bexar County Judge

Hon. Rebeca Clay-Flores
Commissioner, Precinct 1

Hon. Justin Rodriguez
Commissioner, Precinct 2

Hon. Grant Moody
Commissioner, Precinct 3

Hon. Tommy Calvert
Commissioner, Precinct 4

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APPENDIX A
STANDARD FEES AND FORMS

STANDARD FEES

(1) All fees will be made payable to "Bexar County Clerk"

Floodplain Development Permit

A. Permit Fee - $50.00
B. Amendment Fee - $50.00
C. Permit Variance - $25.00

STANDARD FORMS

A. Section 1316 Declaration Form
B. Section 1316 Rescission Form

Forms Available on Bexar County Public Works Website:

A. Floodplain Development Permit Application
B. Performance Bond
C. Performance Standby Letter of Credit
D. Performance Escrow

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COUNTY OF BEXAR

PUBLIC WORKS DEPARTMENT

1948 Probandt St.
San Antonio, Texas 78214
Main 210-335-6700 Fax 210-335-6713

SECTION 1316 DECLARATION

[DATE]

As the Floodplain Administrator for Bexar County, Texas and under my authority under Article 1, Section A of the Bexar County Flood Damage Prevention Court Order (effective: July 19, 2023), I hereby declare the structures or developments listed below to be in direct violation of this Court Order.

The County of Bexar requests the Federal Emergency Management Agency to deny insurance coverage under the National Flood Insurance Program for these structures or developments pursuant to Section 1316 of the National Flood Insurance Act of 1968.

Structures or Developments in Violation of Bexar County's Flood Damage Prevention Court Order	
Property Owner Name	
Address	
Legal Description	
Violation	

Violation History		
	Date	Violation Description
Notice of Violation Notification Date(s)		
Denial of Insurance Notification Date(s)		

[NAME]
Bexar County Floodplain Administrator
Cc: [NAME], Director of Public Works/ County Engineer
[NAME], Property Owner

Enclosed: Copy of Notice of Violation Letters

COUNTY OF BEXAR

PUBLIC WORKS DEPARTMENT

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SECTION 1316 RESCISSION

[DATE]

As the floodplain Administrator for Bexar County, Texas, and under my authority under Article 1, Section A of the Bexar County Flood Damage Prevention Court Order (effective: July 19, 2023), I hereby declare the structures or developments listed below to be in compliance of this Court Order.

The County of Bexar requests the Federal Emergency Management Agency to restore the availability of flood insurance coverage under the National Flood Insurance Program for these structures or developments, under the National Insurance Act of 1968.

Structures or Developments in Compliance of Bexar County's Flood Damage Prevention Court Order	
Property Owner Name	
Address	
Legal Description	
Original Violation	

Compliance History	
Date	**Description of Measure Taken to Come Into Compliance**

[NAME]
Bexar County Floodplain Administrator
Cc: [NAME], Director of Public Works/ County Engineer
[NAME], Property Owner

Enclosed: Copy of supporting documentation

APPENDIX B
HYDROLOGIC AND HYDRAULIC MODELING GUIDELINES

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(1) All engineered flood studies will follow the most current version of the San Antonio River Authority's "San Antonio River Basin Regional Modeling Standards for Hydrology and Hydraulic Modeling."

(2) When associated to a subdivision proposal, the engineered flood study will include where necessary, the City of San Antonio's "Storm Water Design Criteria Manual", currently located in Appendix H of the Unified Development Code (UDC). When there is a conflict between modeling standards, the stricter will apply.

COUNTY OF BEXAR

PUBLIC WORKS DEPARTMENT

1948 Probandt St
San Antonio, Texas 78214
Main 210-335-6700

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MEMORANDUM

TO: David R Wegmann, P.E., C.F.M.
Interim Public Works Director/County Engineer

FROM: Robert Brach, P.E.
Development Services Engineer

DATE: July 26, 2023

SUBJECT: Updates to 07-11-2023 Bexar County Flood Damage Prevention Court Order

FEMA reviewed the Court Order adopted on July 11, 2023 and noted that the datum in the Mean Sea Level definition provided the year 192 instead of 1988. This year was corrected numerous times during the draft reviews but still showed up incorrectly in the final draft. Current draft has the corrected date.

The Section 1316 Declaration and Section 1316 Rescission Forms are referenced on the Appendix A cover sheet but did not make the last draft. The forms are being added in this update.

RECOMMENDATION: **APPROVAL**

Approved:

David R Wegmann, P.E., C.F.M.
Interim Public Works Director/County Engineer