El Paso County Flood Damage Prevention Order

Revisions Adopted August 24, 2026

Originally Adopted December 18, 2006

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND METHODS

SECTION A. STATUTORY AUTHORIZATION

In the Texas Water Code, Section 16.315, the Legislature of the State of Texas has delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses.

Therefore, the Commissioners Court of El Paso County, Texas adopts the following El Paso County Flood Damage Prevention Order:

SECTION B. FINDINGS OF FACT

1. The flood hazard areas of El Paso 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.

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

SECTION C. STATEMENT OF PURPOSE

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

1. Protect human life and health

2. Minimize expenditure of public money for costly flood control projects.

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the 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-prone area of unincorporated El Paso County.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

To accomplish its purposes, this Order uses the following methods:

1. Engage in floodplain management and adopting and enforcing permanent control measures consistent with the criteria established under the National Flood Insurance Act.

2. 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.

3. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

4. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.

5. Control filling, grading, dredging and other development which may increase flood damage.

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

7. Provide flood hazard area information to the public.

ARTICLE II. 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 consistent with the objectives stated in this Order.

AREA CONTRIBUTING TO FLOODING – means the area outside of the SFHA and within the unincorporated areas of El Paso County unless Floodplain Administrator accepts provided data demonstrating that the area does not contribute to flooding.

AREA OF SHALLOW FLOODING - means a designated AO, AH, AR/AO, AR/AH, or VO zone on the County's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding equal to or greater than 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.

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 below ground level on all sides.

BEST AVAILABLE DATA – means data approved by Commissioners Court and used by the Floodplain Administrator to supplement the then effective FIRM. Sources of this data may include but are not limited to FEMA and Texas Water Development Board.

COMPENSATORY STORAGE – means space within the SFHA that is created by the removal of dirt, soil, or other material at an elevation below base flood elevation within the SFHA to make up for the addition of dirt, soil, concrete, or other building material below base flood elevation within the SFHA. Removal of material must be hydraulically equivalent to the addition of material.

CRITICAL FACILITY – means facilities that materially affect the public health and welfare. Such facilities include, but are not limited to: structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials; hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

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 a building not containing a basement or other below ground occupied space which has its lowest elevated floor, raised above ground level by posts, piers, pilings, or columns.

EXISTING MANUFACTURED HOME PARK (MANUFACTURED HOME SUBDIVISION) - means a manufactured home park or manufactured home 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 1991 Floodplain Management Regulations adopted by El Paso County.

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 manufactured homes

are to be affixed or reconfigured (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:

(a) the overflow of inland waters.

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

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

FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

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 subdivision regulations, health regulations, and special purpose orders (such as a floodplain order, grading order, and erosion control order). The term describes federal, state, or local regulations, in any combination, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROOFING – see Flood Protection

FLOOD PROTECTION - 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 – a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure for regulation of AO/AH Zones Refer to Elevation Certificate instructions for additional information.

HIGH HAZARD FLOOD ZONE – where Regulatory Floodways are not delineated in the effective FIRM or adopted Best Available Data and the area of the SFHA where the product of the depth and velocity of the discharge of the base flood is greater than 2.5 $feet^2$ per second.

HISTORIC STRUCTURE - means any structure that is:

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

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

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

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

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

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

LACUSTRINE – describes the area within a lake or reservoir that corresponds to nonflowing lake like conditions such as those near a dam.

LEVEE - means a 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.

LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not a building's lowest floor. 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 requirements of this ordinance.

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 Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on El Paso County's then effective Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION – means, for the purpose of regulation of development, structures for which the "start of construction" commenced on or after the effective date of floodplain management regulation adopted by El Paso County and includes any subsequent improvements to such structures. Start of Construction means, for the purposes 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.

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 El Paso County.

NON-RESIDENTIAL STRUCTURE – means a building used only for commercial purposes and other purposes that do not include use as living space. "Non-Residential Structure" does not include structures used as permanent or occasional living spaces or defined as a "Residential Structure" herein.

OPEN FOUNDATION—Columns, piers, posts, and piles supporting raised buildings that allow floodwaters to pass underneath the structure.

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; (iv) is road worthy and legally registered as a motor vehicle: and (v) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATED AREA – means unincorporated El Paso County

REGULATORY FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as shown on the current effective map or adopted best available data.

RESIDENTIAL BUILDING - A non-commercial building designed for habitation by one or more individuals or a mixed-use building that qualifies as a single-family, 2 - 4 family, or other residential building. Includes commercial structures used for permanent or occasional living spaces.

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

SPECIAL FLOOD HAZARD AREA (SFHA) – is the land in the floodplain within regulated area 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). On FIRMs, A Zones include 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.

START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the development 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 for manufactured homes, the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. Structure, for insurance purposes, means: (1) A building with two or more outside rigid walls and a fully secured roof that is affixed to a permanent site;

(2) A manufactured home (a “manufactured home,” also known as a “mobile home,” is a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

(3) A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community's floodplain management and building ordinances or laws.

For the latter purpose, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

DRAINAGE DESIGN STANDARDS- means 1997 County of El Paso Subdivision Design Standards as adopted and subsequently modified and revised and related drainage criteria adopted by El Paso County Commissioners Court.

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. The Floodplain Administrator determines substantial damage based on data submitted by the permit applicant acceptable to the Floodplain Administrator, an inspection performed by El Paso County staff or FEMA, or data provided by FEMA.

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 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."

The Floodplain Administrator shall determine if the proposed work represents a substantial improvement based on data submitted by the permit applicant acceptable to the Floodplain Administrator, an inspection performed by El Paso County staff or FEMA, or data provided by FEMA.

VARIANCE – means a grant of relief from the terms of a floodplain management regulation.

VIOLATION - means the failure of a structure or other development to be fully compliant with the County's floodplain management regulations. A violation persists until the structure or development is deemed fully compliant with the County’s floodplain management regulations by the Floodplain Administrator.

WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NAVD) of 1988 (or datum used for the then current El Paso County FIRM), of floods of various magnitudes and frequencies.

ARTICLE III. GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDER APPLIES

The El Paso County Flood Damage Prevention Order ("Order") shall apply to all unincorporated areas of El Paso County, the regulated area.

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

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for El Paso County," dated September 4, 1991.

"The Flood Insurance Study (FIS) for El Paso County" with accompanying Flood Insurance Rate Maps (FIRM) dated September 4, 1991, any FEMA issued revisions to FIRMs such as letters of map revisions and new FIRMs and any information adopted as best available data are hereby adopted by reference and declared to be a part of this Order.

SECTION C. BASIS FOR ESTABLISHING OTHER AREAS WHERE FLOOD HAZARD REDUCTION IS REQUIRED

1. Flood Hazard Reduction is required in all areas within the jurisdiction of El Paso County.

Development that does not meet the criteria of the Drainage Design Standards contributes to flooding. All areas of the County are designated as areas contributing to flooding.

2. Best Available Data

(a) Pursuant to Article IV, Section B (6) of this Order, the Floodplain Administrator may utilize best available data to supplement the then effective FIS and FIRM to regulate development. Best Available Data may include new elevation and flooding studies undertaken by FEMA, Texas Water Development Board, El Paso County, other public agencies, or private developers.

(b) Upon determination by the Floodplain Administrator that the data generated by such a study appears to be reliable and based upon sound engineering and surveying practices and that the study's data contributes to the understanding of flood risk in the county, the Floodplain Administrator may request that the study data be adopted by the County as Best Available Data. This request shall be in writing and upon approval of the Commissioners Court retained in the Floodplain Administrator's records and utilized as though it were part of the then effective FIRM.

(c) Where Best Available Data is being administered as provided in subsection (a), the following procedures shall apply:

(i) To the extent of any inconsistencies between the study data and the effective FIRM, the more restrictive data, as determined by the Floodplain Administrator, shall be controlling, and in no instance may any determination or designation that is based on the effective FIRM be reduced by study data.

(ii) Any applicant for a plat, permit or other approval that is denied because of the application of Best Available Data may appeal the denial of the permit, plat or other approval based on the validity of the data as applied to the applicant's property or project. The appeal shall be considered in the same manner as a variance application under Article IV, Section E of this Order.

(iii) Any appeal pursuant to this section shall not result in any change in the Best Available Data. The appeal process shall be limited to the use of the Best Available Data by the County to the specific application that is the subject of the appeal;

(iv) The appeal process shall not be regarded as an appeal under Part 67, or a request for map amendment under Part 69 of Title 44 of the Code of Federal Regulations;

(v) Any outcome of the appeal to the County is in no way binding on FEMA, nor will it affect or limit any action the Agency may take; and

(vi) The applicant can challenge the use of the study data as the basis for a regulation by separately submitting a LOMR to EP County.

(vii) For any special flood hazard area for which a floodway has not been designated, the applicant may be required by the Floodplain Administrator to submit an engineering analysis by a registered professional engineer licensed in the State of Texas that defines the floodway with respect to the site for which a development permit is sought.

SECTION D. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required prior to start of construction to ensure that development is in conformance with the provisions of this Order. Development may not commence prior to issuance of a Floodplain Development Permit.

The type of Floodplain Development Permit required depends on the location of the development site and whether the site is part of previously approved plat that included drainage plans acceptable to the Floodplain Administrator.

1. A Class I Floodplain Development Permit is required for development of Areas Contributing to Flooding that did not include drainage plans acceptable to the Floodplain Administrator as part of a previous plat approval.

2. A Class II Floodplain Development Permit is required for development of parcels partially or completely within the SFHA that did not include drainage plans acceptable to the Floodplain Administrator as part of a previous plat approval.

3. A Class III Floodplain Development Permit is required for development of parcels partially or completely within the SFHA that included drainage plans acceptable to the Floodplain Administrator as part of a previous plat approval.

4. A Class IV Floodplain Development Permit is required for development of parcels in Areas Contributing to Flooding that are completely outside of the SFHA that included drainage plans acceptable to the Floodplain Administrator as part of a previous plat approval.

SECTION E. COMPLIANCE

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

SECTION F. ABROGATION AND GREATER RESTRICTIONS

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

SECTION G. INTERPRETATION

In the interpretation and application of this Order, all provisions shall be;

1. considered as minimum requirements;

2. liberally construed in favor of the governing body; and

3. deemed neither to limit nor repeal any other powers granted under State statutes.

SECTION H. WARNING AND DISCLAIMER OR LIABILITY

The degree of flood protection required by this Order is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Order does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Order shall not create liability on the part of El Paso County or any County official or employee for any flood damages that result from reliance on this Order, or any administrative decision lawfully made under this Order. The County does not waive any immunities or other rights it may have under Federal, or State law including, but not limited to, statutory or common law.

ARTICLE IV. ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The El Paso County Administrator or a delegate designated by the El Paso County Administrator is hereby appointed the Floodplain Administrator to administer and implement the provisions of this

Order and other appropriate sections of 44 CFR Part 60, Federal Requirements for Floodplain Management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

1. Maintain and hold open for public inspection all records pertaining to the provisions of this Order in accordance with the Texas Public Information Act or its successors.

2. Review permit applications to determine whether the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flood damage.

3. Review, approve or deny all applications for floodplain development permits required by adoption of this Order.

4. Review permits for proposed development for a certification from the applicant 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. The Floodplain Administrator is authorized to use best available data to supplement the effective FIRM pursuant to Article III, Section C (2) of this Order with the approval of Commissioners Court.

7. Notify, adjacent communities and the State Coordinating Agency which is the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse potentially impacting areas outside of El Paso County and submit evidence of such notification to FEMA.

8. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained through the permitting process.

9. When base flood elevation data has not been provided in accordance with Article III, 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, to administer the provisions of Article V. The Floodplain Administrator may require an applicant's engineer to determine base flood elevation and the boundaries of the floodplain, high hazard flood zone, and floodway and document their methodology for this determination for the floodplain administrator's review and approval as part of a floodplain development permit application. The floodplain administrator may also require

the developer to prepare and obtain County and FEMA approval of a letter of map revision incorporating this determination.

10. When a regulatory floodway has not been designated or a high hazard flood zone has not been developed and approved by the Floodplain Administrator, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM.

11. Any structure found to be not compliant with the requirements of this Order for which the developer and/or owner has not applied for and received an approved variance under Article IV, Section D are in violation of this Order, and the Floodplain Administrator will send notification to FEMA and take enforcement actions pursuant to the enforcement provisions under Article V, Section K of this Order.

12. For structures found to be in violation of the requirements of this Order, upon approval of Commissioners Court, the Floodplain Administrator is authorized to submit a request to FEMA that flood insurance be denied under Section 1316 of 44 CFR of the National Flood Insurance Program regulations.

13. Upon approval of Commissioners Court, the Floodplain Administrator is authorized to submit a request to FEMA to restore flood insurance eligibility to properties brought into compliance with this Order.

SECTION C. PERMIT PROCEDURES

1. Floodplain Determination Request

A floodplain determination is required prior to the start of any construction activity within the regulated area. Permit applicants shall present an application for a Floodplain Determination Request to the Floodplain Administrator on forms furnished by the Floodplain Administrator. The application shall include, but is not limited to, plans in duplicate drawn to scale showing the location and elevation of the parcel of land where development is proposed to occur. The Floodplain Administrator shall provide a Floodplain Determination including the flood zone of the parcel and the type of Floodplain Development permit required. The Floodplain Determination shall be provided within a time limit established by the Floodplain Administrator. Applicants may choose to submit a Floodplain Determination completed, signed, and sealed by a Texas Professional Engineer on a form provided by the Floodplain Administrator in lieu of a Floodplain Determination provided by the Floodplain Administrator.

2. Floodplain Development Permit Application

After receiving a Floodplain Determination provided by or accepted by the Floodplain Administrator, an application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed land alterations,

existing and proposed structures, including the placement of manufactured homes, sewage disposal system, and the location of the foregoing in relation to the special flood hazard area. The Floodplain Administrator may require that a survey be performed to establish existing conditions and elevations and as a basis of development plans. Alternatively, the Floodplain Administrator may allow for record topographic information to be used in whole or in part to establish existing conditions. 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 non-residential structure shall be floodproofed;

(c) A certificate from a Texas registered professional engineer or Texas registered architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article V, 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) For improvements or repairs to existing structures, cost and valuation data must be submitted. Acceptable data in acceptable combinations includes:

(i) Cost – NFIP Proof of Loss or other NFIP Claim Data. Market Value – NFIP Actual Cash Value;

(ii) Cost – Substantial Damage Estimate (SDE) using FEMA software prepared by County or FEMA. Market Value – SDE actual cash value;

(iii) Cost - signed and notarized homeowner or contractor repair or improvement itemized cost estimate. Market Value – EP CAD improvement value;

(iv) Where the effective FIRM SFHA or adopted Best Available Data does not include the delineation of a floodway, provide documentation establishing a floodway or delineation of the High Hazard Flood Zone within the SFHA within or adjacent to the development parcel.

(v) Other Data accepted by Floodplain Administrator.

3. Approval or Denial of Floodplain Development Permits

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 movement of water, if applicable, expected at the site;

(h) The necessity to the facility of a flood-prone location, where applicable;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

4. Term Of Floodplain Development Permits

Construction must be started within 180 days of the date the Floodplain Development Permit is issued, or it shall be null and void. Upon written request made prior to the Floodplain Development Permit becoming null and void, two (2) six-month extensions may be obtained at the discretion of the Floodplain Administrator. However, if construction has not started at the time of the issuance of a revised or amended FIRM, LOMA, or LOMR, a new Floodplain Development Permit must be obtained regardless of the time span from the issuance of the latest permit to ensure compliance with FEMA's map changes.

SECTION D. VARIANCE PROCEDURES

1. The Floodplain Administrator or his designee, shall hear, and render judgment on requests for variances from the requirements of this Order. The Floodplain Administrator may establish procedural rules for conduct of this business.

2. The Floodplain Administrator shall issue a decision on the request within 30 County business days of having received the request and all necessary supporting documentation. Failure to issue a response within this time does not grant an automatic approval.

3. Variance Fees established in the Fee Order included in Appendix A of this Order must be paid by the applicant prior to the acceptance of each variance application.

4. The Floodplain Administrator shall maintain a record of all actions involving a variance and shall report variances to the FEMA upon request.

5. 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 by the appropriate Federal, State, or local agency and the variance is the minimum necessary to preserve the historic character and design of the structure. Variances under this subsection (5) may be granted without regard to the procedures set forth in the remainder of this Order.

6. Upon consideration of the factors noted above and the intent of this Order, the Appeals Board may attach any conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Order as stated in Article I, Section C.

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

8. 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 Orders; and

   (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.

9. Variances may be issued by the County 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 IV, 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.

SECTION E. ADMINSTRATIVE APPEALS BOARD COMPOSITION AND ADMINISTRATION AND APPEALS PROCEDURE

1. The Flood Order Administrative Appeals Board is created to hear, and render appeals from actions, including variance denials, taken by the Flood Plain Administrator or their designee (referred to here as the "Administrator"). The Board may establish procedural rules for conduct of its business.

2. The Board shall consist of three members who are residents of El Paso County Texas. One member shall be the County Public Works engineer or their designated representative. One member shall be a professor of the Civil Engineering Department from a local University with experience in hydrology and hydraulics and appointed by the El Paso County Administrator. One member shall be a Texas licensed professional civil or structural engineer appointed by the El Paso County Administrator based upon written recommendations of the appellant and appointed by the El Paso County Administrator. Recommended engineers must have a minimum of 5 years demonstrable experience in drainage and floodplain management and be currently registered as a Certified Floodplain Manager (CFM) by the Texas Floodplain Management Associate (TFMA). If the County Administrator rejects the appellant's recommendations, the appellant may submit a revised list of alternative recommendations subject to the same criteria.

3. None of the appointees shall serve if they have previously been directly or substantially involved in making the final decision which is being appealed or has other conflicts of interest. This includes having been involved in the review, preparation, or submittal of information relating to the matter being appealed. County employees shall not receive any additional compensation apart from their regular compensation for their services on the Board. Private individuals shall not receive any compensation for their services on the Board.

4. If an appointee resigns, is unable to serve or is disqualified from serving, the County Administrator shall appoint a replacement with a person of equal or similar experience and qualifications.

5. Two members of the Board shall constitute a quorum.

6. A person seeking an appeal from a decision of the Floodplain Administrator or a decision by the Administrator's designee may appeal to the Administrative Appeals Board ("the Appeals Board"). Written appeals to the Appeals Board must be submitted within 60 calendar days after the date on which the written decision being appealed was issued. An appeal must be in writing and clearly state the specific decision which is being appealed, the specific statute, rule, regulation, or other requirements from which the appellant is seeking relief, and include supporting documentation and data as to the specific error, reasons, facts, and/or circumstances why the appeal should be granted. The County at its sole discretion may develop any form to be used in requesting relief.

7. The Administrative Appeals Board shall issue a decision granting or denying an appeal not more than 60 County business days from receipt of the administratively complete appeal documents.

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

9. At the hearing, consistent with Board rules and procedures, the appellant shall have the opportunity to present all the appellant's arguments and to be represented by legal counsel (at appellant's own expense), present evidence and witnesses on their behalf, and cross examine any of the Administrator's witnesses. Appellant shall bear the burden of proving the grounds for the granting of relief. Any relief granted may not include any reimbursement or compensation for any fees or expenses associated with the request for variance or the cost of appeal. The Administrator may be represented by legal counsel.

10. The Appeals Board may grant relief from those standards which are not imposed by State or Federal law if after proper hearing the Board makes the following written determinations:

    (a) The relief will not vary the provision of any other State or County statute, rule, or regulation;

    (b) The relief will not result in increased flood heights or nuisances;

    (c) The relief granted will not be detrimental to the public, health, safety, or welfare, or injurious to real or personal property not included in the original permit request or result in additional public expenses;

    (d) The relief will not be detrimental to proper drainage and will not increase the risk of damage or harm to persons or real or personal property not included in the original permit request or result in additional public expense;

    (e) The relief will not be detrimental to emergency vehicle response times, emergency evacuations, or vehicular ingress and egress and pedestrian passage in the event of an emergency;

    (f) The relief is sought because the conditions of the property are unique and not generally applicable to other properties, and the conditions and reasons for the request were not self-created by the actions or permission of the applicant;

    (g) The physical surroundings, shape, or topography of the specific property involved create a particular and exceptional hardship, as distinguished from a mere inconvenience, to the owner of the property if relief is not granted;

    (h) Relief granted shall be limited in scope to an adjustment of a specific applicable rule or regulation for a limited purpose under the specified conditions to the specific set of facts and circumstances stated in the appeal.

11. Relief shall only be issued upon a determination that considering the flood hazard, the relief granted is the minimum necessary to afford relief in the specific circumstances.

12. Any person or persons aggrieved by the decision of the Appeals Board may appeal such decision in El Paso County Commissioners Court.

13. The Appeals Fee established in the Fee Order included in Appendix A of this Order must be paid by the applicant prior to the acceptance of each request for Appeals Board reconsideration and Commissioners' Court reconsideration.

14. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report appeals to the FEMA upon request.

SECTION F. FEES

1. Pursuant to Texas Water Code, the El Paso County Commissioners Court may set a reasonable fee for the issuance of a permit.

2. No Floodplain Development Permit application or map change shall be accepted or processed without the remittance of all applicable fees.

3. Floodplain Development Permit fees shall be doubled when start of construction occurs prior to permit issuance. This does not limit the ability of the County to seek additional penalties or fines as part of the enforcement provisions of this Order.

ARTICLE V. PROVISIONS FOR FLOOD REDUCTION

SECTION A. GENERAL STANDARDS

In all areas of the SFHA of El Paso County, the following provisions are required for development:

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 to 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 located two (2) feet above base flood elevation 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.

8. Unless otherwise determined by the Floodplain Administrator, Floodplain Development permits for non-substantial improvements of non-compliant structures shall be limited to one per 12-month period.

SECTION B. STANDARDS FOR DEVELOPMENT IN ZONES A1 – 30 AND AE SPECIFIC STANDARDS

In areas designated as zones A1-30 and AE on the FIRMs of El Paso County or in a study adopted as best available data and are outside the regulatory floodway or delineated High Hazard Flood Zone, 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 a minimum of two (2) feet above the base flood elevation. A registered professional engineer, registered architect, or registered professional land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article IV, Section C, is satisfied.

2. Non-residential Construction

   New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have:

   (a) the lowest floor (including basement) elevated a minimum of two (2) feet above the base flood level, or

   (b) 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 registered 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. The Floodplain Administrator shall maintain a record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed.

3. Compensatory Storage

(a) Compensatory Storage is required to be hydraulically equivalent to the pre-fill conditions of the site.

(b) Residential Structures Elevated on an open foundation
For developments including Residential structures elevated on an open foundation, compensatory storage will not be required for the open foundation, and up to 8" of fill, as necessary, to create proper drainage of the lot. For any fill in excess of these standards, Compensatory storage is required at a cut to fill ratio of 1 to 1.

(c) Residential Structures Elevated with fill
For development of a residential structure elevated on fill, compensatory storage is required at a cut to fill ratio of 1 to 1.

(d) Other development in the SFHA
For all other development in the SFHA, compensatory storage is required at a cut to fill ratio of 1.5 to 1.

4. Manufactured Homes

(a) All manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated at least 2 feet above BFE and anchored to resist flotation, collapse and 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) All 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,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least 2 feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(c) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's

FIRM that are not subject to the provisions of paragraph (4) of this section shall be elevated so that either:

(i) The lowest floor of the manufactured home is at least 2 feet above the base flood elevation; or

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

5. Recreational Vehicles

Recreational vehicles placed on sites within Zones A1-30, AH and AE on the community's FIRM shall :

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

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

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

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.

6. Detached Accessory Structures

Detached accessory structures used only for parking of vehicles and storage are permitted at grade if the following are satisfied:

(a) In special flood hazard areas (Zones A, AE, AH, AO and A1-30), are not larger than a one-story, two-car garage and walls have flood openings in compliance with the requirements of Article V, Section B (7);

(b) Are anchored to resist flotation, collapse and lateral movement;

(c) Flood damage-resistant materials used below the base flood elevation comply with the requirements of Article V, Section A (3);

(d) Mechanical, electrical and utility equipment comply with the requirements of Article 5, Section A (4); and

(e) Accessory structures shall be limited to not more than 600 square feet in total floor area.

7. 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 Texas registered professional engineer or Texas registered 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 (1) foot above grade.

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

SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS

1. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article III, Section C; Article IV, Section C; and the provisions of Article V of this Order.

2. Where Base flood elevation data is not included in the effective FIRM and a subdivision proposal or other proposed development includes either the placement of a manufactured home park or a subdivision with 50 lots or more or 5 acres in size, whichever is lesser, the applicant shall be required to submit a letter of map change to establish the BFE for the proposed development. This letter of map change shall be subject to third party review unless otherwise determined by the Floodplain Administrator. The letter of map change must be approved by the Floodplain Administrator and FEMA prior to approval of the subdivision proposal or other proposed development.

3. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided as determined by the Floodplain Administrator and in compliance with the Subdivision Order to reduce exposure to flood hazards.

4. 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)

AO/AH Zones are located within the special flood hazard area established in Article III, Section B. These zones are designated as areas of 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 shall have the lowest floor (including basement) elevated a minimum of two (2) feet above the base flood elevation or have the highest adjacent grade at least two (2) feet above the depth number specified in feet on the County's FIRM (at least three feet if no depth number is specified).

2. All new construction and substantial improvements of nonresidential structures shall;

   (a) have the lowest floor (including basement) elevated a minimum of two (2) feet above the base flood elevation or have the highest adjacent grade at least two (2) feet above the depth number specified in feet on the County's FIRM (at least three 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 and effects of buoyancy.

3. A registered professional engineer or registered architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article IV, 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 AND HIGH HAZARD FLOOD ZONES

Floodways are located within the special flood hazard area established in Article III, Section B. Where floodways are not shown in the current effective FIRM or adopted best available data, the applicant can delineate a High Hazard Flood Zone within the SFHA partially or completely within the development site. If the Floodplain Administrator accepts the High Hazard Flood Zone delineated by the applicant, it may be used to permit development within the development site outside of the High Hazard Flood Zone. Since the floodway and approved High Hazard Flood Zones are 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. No development will be allowed within an approved High Hazard Flood Zone unless a CLOMR or LOMR has been approved by FEMA that supersedes the High Hazard Flood Zone.

2. No development will be allowed within the floodway as designated on the County's FIRM or adopted Best Available Data unless the developer and/or owner has applied for and received an approved variance under Article IV, Section D.

3. Low water crossings are prohibited within the floodway as designated on the County's FIRM or adopted Best Available Data.

4. Encroachments of any kind within the floodway are prohibited, unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice accepted by the Floodplain Administrator that the proposed encroachment would not result in any increase in flood levels within the County during the occurrence of the base flood discharge.

5. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a County may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the County first completes all of the provisions required by Section 65.12 including, but not limited to, requiring the applicant obtain FEMA approval of a Conditional Letter of Map Revision ("CLOMR") for the proposed development

6. Upon FEMA approval of a CLOMR, submittal and preliminary approval of permit plans and documents and payment of the County fees, the Floodplain Administrator shall issue Construction Authorization to allow the construction of the floodway encroachment improvements.

7. The holder of a Construction Authorization is required to complete construction of the floodway encroachment improvement within two (2) years of issuance.

8. The holder of a Construction Authorization is required to submit and obtain FEMA approval of the associated Letter of Map Revision ("LOMR") upon completion of the construction specified in the Construction Authorization. If the LOMR has not been submitted to FEMA within six months of construction completion and approved by FEMA within two (2) years of construction completion, the development shall be in violation of this Order and subject to the enforcement provisions of Article V, Section K.

9. After two (2) years of issuance, the Construction Authorization and Community Acknowledgement form shall be revoked. The applicant shall be required to restart the approval process.

SECTION F. STANDARDS FOR AREAS CONTRIBUTING TO FLOODING

New development in all areas contributing to flooding are required to comply with the retention and detention provisions of the Drainage Design Standards.

SECTION G. STANDARDS FOR CRITICAL FACILITIES

New construction or substantial improvement of critical facilities within the SFHA and Zone X shaded shall be elevated or floodproofed to one (1) foot above the 0.2% flood elevation (500-year flood elevation) or three (3) feet above base flood elevation, whichever is higher.

SECTION H. STANDARDS FOR DEVELOPMENT IN ZONE A

1. Zone A or Approximate A Zone is a designation by FEMA where the special flood hazard area is estimated using only approximate methodologies. In Zone A, no base flood elevations have been determined, floodways have not been designated, and the data is insufficient to identify exact boundaries, depths or limits of the special flood hazard or a resulting floodway. Due to these limitations, El Paso County has adopted additional flood hazard reduction measures specific to development occurring in or near Zones A or its contributing watercourses. Any development occurring within the following areas shall be subject to this section:

    (a) Any area depicted as Zone A on the FIRM;

    (b) Any area located within 100 feet of Zone A of the FIRM unless the Floodplain Administrator has determined that the development is reasonably safe from flooding, or a detailed hydrologic and hydraulic study is performed to identify the limits of the base flood and elevation;

    (c) Any area that has been identified as being subject to inundation of the 1 percent or greater chance flood through a detailed engineering hydrologic and hydraulic study accepted by the Floodplain Administrator;

    (d) Any area within 100 feet of a stream center line shown on USGS Topographic Map unless the Floodplain Administrator has determined that the development is reasonably safe from flooding, or a detailed hydraulic and hydrologic study has been performed which indicates it is not in the special flood hazard area; or

    (e) Any floodway or geographic area selected and adopted by the El Paso County Commissioners Court or determined by the Floodplain Administrator as being subject to flood inundation through a detailed study, historical records, flood events, or the best available data from any federal, state, or other source.

2. No development may commence until a floodplain determination is issued by the Floodplain Administrator as set out under Article IV, Section C indicating the applicability of this Order. The determination must be included with any application for a floodplain development permit.

3. Utilizing data available from Federal, State, or other sources, the Floodplain Administrator shall determine whether data is sufficient to establish a County-issued base flood elevation (BFE) to regulate development. If the Floodplain Administrator finds that the available data is insufficient to establish a County-issued BFE, the applicant will be required to obtain the services of a Texas-registered professional engineer to perform a hydrologic and hydraulic study necessary to establish

the limits of the special flood hazard area and the floodway or High Hazard Flood Zone and the base flood elevation that will govern the proposed development.

4. If a hydraulic and hydrologic study required by subsection (3) above that in the opinion of the Floodplain Administrator results in significant differences between the mapped FIRM and on-the-ground conditions, the Floodplain Administrator may require that a Letter of Map Change (LOMC) be submitted to and approved by FEMA prior to the approval and issuance of a permit.

5. All new construction, substantial improvements or other development shall comply with all applicable flood hazard reduction provisions of Article V.

6. All new construction, substantial improvements or other development shall comply with the floodway and high hazard flood zone requirements of Article V, Section E.

SECTION I. MAP CHANGES

1. With the exception of requests for Letters of Map Amendment using the MT-EZ form, FEMA requires that all requests for FEMA's Letters of Map Change such as letters of map amendment (LOMA), letters of map revision (LOMR), letters of map revision based on fill (LOMR-F) and conditional letters of map revision (CLOMR) initiated by any person must include a FEMA community acknowledgement form signed by the Floodplain Administrator.

2. The Floodplain Administrator may require the submission of any data or documentation deemed relevant to determining if acknowledgement of a Letter of Map Change should be provided. The Floodplain Administrator may deny an application or request in which the applicant has refused to provide requested additional data.

3. If the topographic data was prepared in a digital format, the applicant shall include a copy of the digital data with the submittal.

4. If applicable, applicants shall be required to submit relevant portions of a project such as analysis, modeling and design calculations, and drainage reports that impact International Boundary Water Commission drainage structures and the Rio Grande floodplain to the International Boundary and Water Commission for review and approval. The Floodplain Administrator may delay the submittal of the requests to the FEMA until after receipt of the approvals.

5. The Floodplain Administrator's execution of a Community Acknowledgement Form as may be required by FEMA is generally based on the information submitted with the application. If the Floodplain Administrator obtains information or evidentiary documents that substantially changes or materially impacts the basis of the Floodplain Administrator's certification contained in the Community Acknowledgement Form, the Floodplain Administrator may revoke said certification to ensure development complies with federal and state laws, local regulations, and this Order.

6. Except for a Construction Authorization required to construct improvements included in a CLOMR, no Floodplain Development permit can be issued based on CLOMR data. The current FIRM or adopted best available data shall prevail until a letter of final determination for a LOMR issued.

7. A revoked community acknowledgement form associated with a CLOMR shall require the applicant to resubmit all required documents to the County.

8. All applications for any Letter of Map Change must be submitted with the required fees as prescribed in Article IV, Section F of this Order before it can be considered a complete application.

SECTION J. SEVERABILITY

If any section, clause, sentence, or phrase of this Order is held to be invalid or unconstitutional by any court of competent jurisdiction, the invalidation or unconstitutionality shall not affect the validity of the remaining portions of this Order.

SECTION K. PENALTIES FOR NON-COMPLIANCE

1. Per Texas Water Code, Water Section 16.315(5), the El Paso County is authorized to enforce the provisions of this Order.
2. No structure or land shall be constructed, located, extended, converted, or altered without full compliance with the terms of this Order and other applicable regulations. Violation of the provisions of this Order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class C misdemeanor per Texas Water Code, Section 16.3221. Each violation of this Order and each day of a continuing violation is a separate offense.
3. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $500 for each violation for each day the violation persists, nothing contained in this order shall prevent El Paso County from taking such other lawful action as is necessary to prevent or remedy any violation.
4. The Floodplain Administrator is authorized to file a certificate of non-compliance of record to notify the public of a property's non-compliance with this Flood Order. Once the property is brought into compliance through the issuance of permits, completion of construction per the requirements of this Flood Order, completion of required inspections, submittal, and approval of required documents, the property owner may request that a certificate of compliance be filed of record to rescind the certificate of non-compliance.

5. For structures found not compliant with the requirements of this Order, upon approval of Commissioners Court, the Floodplain Administrator is authorized to submit a request to FEMA that flood insurance be denied under Section 1316 of 44 CFR of the National Flood Insurance Program regulations. The Floodplain Administrator is also authorized to submit a request to FEMA to restore flood insurance eligibility to properties brough into compliance with this Order.

6. If the Floodplain Administrator finds that that a person has violated, is violating, or is threatening to violate this Order, the County may institute a civil suit in the appropriate court for either:

   (a) 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;

   (b) the assessment and recovery of the civil penalty provided by Texas Water Code Section 16.322; or

   (c) both the injunctive relief and the civil penalty.

ARTICLE VI. RESPONSIBILITIES, SUSPENSION, AND REVOCATION

SECTION A. RESPONSIBILITIES OF ALL PERMIT APPLICANTS

1. All applicants and permit holders shall allow the Floodplain Administrator or its designee to inspect the work or development subject to a permit or regulation. The Floodplain Administrator or its designee, may make as many scheduled or unscheduled inspections as deemed necessary to enforce this Order. Required inspections shall include, but are not limited to:

   (a) Pre-construction Inspection to occur prior to the start of construction to confirm pre-construction conditions and review permit requirements.

   (b) Elevation or Flood Protection Inspection to occur based on the foundation type or the method of flood protection to be used. The goal is to confirm the elevation or flood protection method prior to continuing vertical construction.

   (c) Final Inspection to occur at construction completion. This inspection will include review of the as-built elevation or floodproofing certificate submitted by the permittee and all other plan features.

2. Inspection Fees established in the Fee Order included in Appendix A of this Order must be paid by the applicant prior to each inspection and, if needed, reinspection.

3. For the safety of inspection personnel, all animals must be restrained immediately prior to and lduring the County's inspection of the construction and development. Failure to restrain animals may result in the suspension of inspection activities and subject the applicant to additional fees for rescheduling the inspection.

4. Permit Applicants are required to provide accurate information and property ownership details in the application and design documents. Should the applicant discover an error of any of the information previously submitted, the applicant shall notify the Floodplain Administrator of the error within three (3) business days. Failure to provide accurate information may result in

suspension or revocation of a permit under Article VI, Section B and Section C. Intentional falsification or deception to obtain a permit shall result in the revocation of an application or permit.

5. The supporting documents of the permit application must reflect all development changes as they occur. The Floodplain Administrator must approve any change that would result in any change to the floodway, floodplain, a watercourse, base flood elevations, or other substantial modifications prior to the development commencing. The applicant must report any change which does not result in a change to the floodway, floodplain, a watercourse, base flood elevations, or other substantial modifications to the Floodplain Administrator in writing within three (3) business days of commencement of construction of the change. Proceeding with construction of any change prior to notifying and obtaining Floodplain Administrator approval of a change is at the applicant's risk. The applicant may be responsible for correction of a change that is not approved by the Floodplain Administrator.

SECTION B. SUSPENSION OF PERMITS

1. Consistent with Article III, Section D, a permittee may not commence construction until the issuance of a Floodplain Development Permit.

2. The Floodplain Administrator may suspend a Floodplain Development Permit issued under this Order if the development is found to be in violation of the construction requirements set forth under this Order.

3. If the Floodplain Administrator suspends a Floodplain Development Permit, the Floodplain Administrator shall notify the permittee in writing identifying violations of the construction requirements of set forth in this order.

4. If an issued Floodplain Development permit is suspended by the Floodplain Administrator, a permittee may perform only that work and actions directly related to and necessary to correct the conditions upon which the suspension is based. Any other work will be considered a violation of the permit conditions of this Order. The permittee shall advise the Floodplain Administrator in writing of the work to be done and the estimated date of commencement and completion.

5. Within 45 days of notice of suspension, the permittee must cure all conditions of the violation and notify the Floodplain Administrator. If the Floodplain Administrator accepts the cure of violation, the permit shall be reinstated in writing. If the permittee fails to satisfactorily cure the violation and/or notify the Floodplain Administrator within 45 days of notice of suspension, the Floodplain Administrator may revoke the permit. Upon showing good faith effort by the permittee the Floodplain Administrator may grant an extension to remedy the violation.

6. If the development is not brought into compliance, all suspended Floodplain Development Permits are subject to Article V, Section K of this Order.

SECTION C. REVOCATION OF PERMITS

1. The Floodplain Administrator may revoke a Floodplain Development Permit if the development deviates from the permit's development criteria or undertakes substantial improvement without prior authorization of the Floodplain Administrator through a Floodplain Development Permit.

2. All revoked permits are subject to Article V, Section K of this Order.

3. Grounds for permit revocation include but are not limited to the following:

   (a) Falsifying information in the permit application or design documents.

   (b) Material deviation from the drawings and specifications on file with the Floodplain Administrator, or a pattern of consistent deviation from such drawings and specifications which would demonstrate an intention to avoid conformity with the requirements of the permit.

   (c) Refusal to uncover work, allow access or otherwise interfere with an inspection of the Floodplain Administrator, designee, or other authorized county employee.

   (d) Proceeding with development while a permit is suspended, other than such work necessary to abate a suspension.

4. When a permit is revoked, all work must cease immediately. In order to continue work, a new application must be submitted, and no work may occur unless and until a new permit is issued.

ARTICLE VII. CERTIFICATE OF ADOPTION

APPROVED AND ADOPTED THIS 24th DAY OF AUGUST, 2026.

Ricardo A. Samaniego

El Paso County Judge

ORDER BECOMES EFFECTIVE:

August 24, 2026

I, the undersigned, Delia Briones, do hereby certify that the above is a true and correct copy of an Order duly adopted by the El Paso County, at a regular meeting duly convened on August 24, 2026.

{Signature of Certifying Official}

{SEAL}

Appendix A - El Paso County Floodplain Permit and Inspection Fee Structure

The below table summarizes the draft fee structure for floodplain development related fees to be included in the 2025 El Paso County Flood Damage Prevention Order update. Fees provided have been developed based on El Paso County's estimated cost of service and benchmarking other Texas Counties and the City of El Paso. Permit and inspection fees are under authority of Texas Water Code Section 16.315 and 16.324.

Permit Type	**Class I**	**Class II**	**Class III**	**Class IV**
Location	Outside SFHA	Partially or completely in SFHA	Partially or completely in SFHA	Outside SFHA
Drainage Plan Status	None	None	Approved	Approved
Floodplain Determination The floodplain determination fee shall be assessed for all projects and will determine any additional applicable fees. Applicants may avoid paying the Floodplain Determination fee by having their own engineer complete sign and seal a floodplain determination form with required attachments.				
Floodplain Determination	$25	$25	$25	$25
LOMC Review The minimum fee for Letter of Map Change Review for Residential is $150. As needed, an additional hourly rate for 3rd party review of technical submittals will be charged.**				
Residential/ Non-Residential	-	$150 + hourly rate for 3rd party review, as needed	$150+ hourly rate for 3rd party review, as needed	-
Individual Lot Grading and Drainage Review				
Residential	$300	$300	-	-
Non-residential	$800	$800	-	-
Floodplain Development Permit Fee				
Residential	-	$50	$50	
Non-residential	-	$150	$150	
Floodplain Variance Fee				
Residential/ Non-residential		$50	$50	
Floodplain Appeal Fee				
Residential/ Non-residential		$150	$150	
Inspection/Reinspection Fee *** No Residential/Nonresidential Inspection fee for development covered by regional drainage improvements				
Residential	$50/$25	$50/$25	$50/$25	$50/$25/$0***
Non-residential	$100/$50	$100/$50	$100/$50	$50/$25/$0***

**** Fees and Rates as shown are as of the date of adoption. Please see the current adopted El Paso County Schedule of Rates and Fees for fees/rates as approved at the present time.

Notes:

Class I – Permit Type for areas Contributing to the Floodplain outside Special Flood Hazard Area (SFHA)* without approved drainage plan

Class II – Permit Type for areas Partially or Completely within Special Flood Hazard Area (SFHA)* without approved drainage plan

Class III – Permit Type for areas Partially or Completely within the Special Flood Hazard Area (SFHA)* with approved drainage plan

Class IV – Permit Type for areas contributing to the Floodplain outside of the Special Flood Hazard Area (SFHA)* with an Approved Drainage Plan

* Special Flood Hazard Area is defined in the 2026 Flood Order Update as the FEMA Effective Special Flood Hazard Area and area regulated under the flood order based on best available data adopted by the El Paso County Floodplain Administrator.

**The hourly rate for 3rd Party Reviews is estimated to be $185/hour at the time the fee structure was updated. The actual rate will be determined at the time the LOMC is submitted. LOMC review could be authorized as an additional service under the EP County On-Call Civil Engineering Contract based on the contract's hourly rates.

****Fees and Rates as shown are as of the date of adoption. Please see the current adopted El Paso County Schedule of Rates and Fees for fees/rates as approved at the present time.