

# Chapter 64

REGULATIONS FOR  
FLOODPLAIN  
MANAGEMENT AND  
GUIDELINES AND  
PROCEDURES FOR  
DEVELOPMENT PERMITS

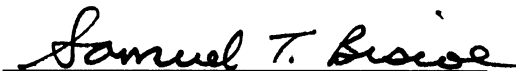
**ORDER OF THE TRAVIS COUNTY COMMISSIONERS COURT AMENDING  
CHAPTER 64 OF THE TRAVIS COUNTY CODE,  
REGULATIONS FOR FLOODPLAIN MANAGEMENT AND  
GUIDELINES AND PROCEDURES FOR DEVELOPMENT PERMITS**

Pursuant to §1.0051 and §1.0052 of the Travis County Policies, Procedures, and Regulations Manual (the "Travis County Code"), be it hereby ORDERED that Chapter 64 of the Travis County Code is hereby amended by deleting the current Chapter 64 and by adding a new Chapter 64, attached hereto and made a part hereof.


The changes ordered herein shall become effective on September 26, 2008.

ORDERED on this 16<sup>th</sup> day of September 2008.

TRAVIS COUNTY COMMISSIONERS COURT




Samuel T. Biscoe  
Travis County Judge




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Ron Davis  
Commissioner, Precinct 1



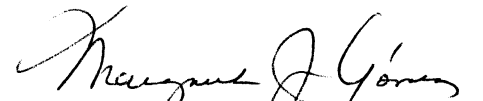
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Sarah Eckhardt  
Commissioner, Precinct 2



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Gerald Daugherty  
Commissioner, Precinct 3



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Margaret Gomez  
Commissioner, Precinct 4

**CHAPTER 64**  
**REGULATIONS FOR FLOODPLAIN MANAGEMENT AND**  
**GUIDELINES AND PROCEDURES FOR DEVELOPMENT PERMITS**

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## **Chapter 64. Regulations for Floodplain Management and Guidelines and Procedures for Development Permits**

### **SUBCHAPTER A.**

#### **§ 64.001. Findings and General Authority**

##### **(a) Findings**

The Travis County Commissioners Court makes the following findings:

- (1) The flood hazard areas of Travis County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by:
  - (A) the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and
  - (B) the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inappropriately placed and/or inadequately elevated, floodproofed, or protected from flood damage;

##### **(b) General Authority**

- (1) The Travis County Commissioners Court is authorized to adopt floodplain regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (2) Pursuant to the authority granted to it by the Texas Legislature in Sections 16.3145 and 16.315 of the Texas Water Code, the Travis County Commissioners Court is authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program, including but not limited to:
  - (A) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;
  - (B) guiding the development of proposed future construction, where practicable, away from a location which is threatened by flood hazards;

- (C) assisting in minimizing damage caused by floods;
- (D) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;
- (E) engaging in floodplain management and adopting and enforcing permanent land use and control measures consistent with the criteria established under the National Flood Insurance Act;
- (F) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the director, or whomever the director of the Federal Emergency Management Agency (“FEMA”) designates, of such property;
- (G) consulting with, giving information to, and entering into agreements with FEMA for the purpose of:
  - (i) identifying and publishing information with respect to all flood areas, including coastal areas; and
  - (ii) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;
- (H) cooperating with the FEMA director’s studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;
- (I) taking steps, using regional, watershed, and multi-objective approaches, to improve the long-range management and use of flood-prone areas;
- (J) purchasing, leasing, and receiving property from the FEMA director when such property is owned by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Federal Emergency Management Agency or other appropriate legal representative of the United States Government;
- (K) requesting aid pursuant to the entire authorization from the Texas Water Development Board (“TWDB”)
- (L) satisfying criteria adopted and promulgated by TWDB pursuant to the National Flood Insurance Program;

- (M) adopting permanent land use and control measures with enforcement provisions which are consistent with the criteria for land management and use adopted by the FEMA director;
- (N) adopting more comprehensive floodplain management rules that the political subdivision determines are necessary for planning and appropriate to protect public health and safety;
- (O) participating in floodplain management and mitigation initiatives such as the National Flood Insurance Program's Community Rating System, Project Impact, or other initiatives developed by federal, state, or local government; and
- (P) collecting reasonable fees to cover the cost of administering a local floodplain management program.



## **§ 64.002. Purpose and Objectives**

The purpose of this chapter is to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in Travis County through the establishment of comprehensive regulations for management of flood hazard areas designed to:

- (a) protect human life and health; enable Travis County to qualify for the National Flood Insurance Program so that property owners may obtain federally subsidized flood insurance for structures.
- (b) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (c) minimize prolonged business interruptions;
- (d) minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in areas of special flood hazard;
- (e) help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- (f) ensure that potential buyers are notified that property is in an area of special flood hazard so that they do not unknowingly purchase land and structures which are unsuitable for certain purposes because of flood hazards;
- (g) ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (h) minimize expenditure of public money for costly flood-control projects;
- (i) encourage use of floodplain lands in accordance with their natural function as bearers of flood waters.

### **§ 64.003. Methods for Reducing Flood Loss**

This chapter provides a regulatory system to monitor and manage land use in the County to reduce the likelihood that land use within the County will increase the dangers of flooding. In order to accomplish its purpose and objectives, this chapter utilizes methods and provisions to:

- (a) restrict or prohibit land uses that are dangerous to health, safety, or property in times of flood or cause excessive increases in erosion, flood heights, or velocities;
- (b) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) control filling, grading, dredging, and other development which may increase flood damage; and
- (e) regulate, including prohibiting, the construction of flood barriers which will unnaturally divert flood waters or which may otherwise increase flood hazards in other areas.

**§ 64.004. Application**

This order shall apply to all properties in the unincorporated areas of Travis County.

#### **§ 64.005. Basis for Identification of Special Flood Hazard Areas**

The special flood hazard areas identified by the Federal Insurance and Mitigation Administration (“FIMA”) of the Federal Emergency Management Agency (“FEMA”) in the Flood Insurance Study (“FIS”) dated September 26, 2008 and accompanying Flood Insurance Rate Maps and flood boundary-floodway maps dated September 26, 2008, and all subsequent amendments and revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to Travis County by the Floodplain Administrator. The FIS and accompanying FIRM are on file at the Travis County Transportation and Natural Resources Department, 411 West 13<sup>th</sup> Street, 8<sup>th</sup> floor, Austin, Texas 78701.

**§ 64.006. Use of Other Flood Hazard Data to Supplement the Effective FIRM**

- (a) From time to time elevation and flooding studies are undertaken by or under the auspices of the Federal Emergency Management Agency and local political subdivisions that have responsibility to abate flooding. 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 further that the study's data indicate that the effective FIRMs are materially inaccurate, the Floodplain Administrator may cause the study data to be administered for purposes of this chapter as though it were a part of the effective FIRM. Any such determination shall be issued in writing and a copy shall be placed on file in the office of the County Clerk.
- (b) Where the study data are being administered as provided in subsection (a), the following procedures shall apply:
  - (1) To the extent of any inconsistencies between the study data and the effective FIRM, the more restrictive base flood elevations and special flood hazard areas shall be controlling, and in no instance may any determination or designation that is based on the effective FIRM be reduced by study data.
  - (2) If alternative base flood elevations exist for a piece of property because of the administration of supplemental data as provided in this section, the applicant shall provide two surveys, one of which shall be based in the effective FIRM and one of which shall be based on the study data.
  - (3) Any applicant for a plat, permit, or other approval that is denied because of the application of the study data may appeal the denial of the permit, plat, or other approval based on the validity of the study data as applied to the applicant's property or project. The appeal shall be considered in the same manner as a variance application under this chapter. In any such appeal, the Floodplain Administrator shall provide the documentation for the study data; however, the burden of demonstrating that the study data are incorrect as applied to the applicant's property shall rest upon the applicant, and must be supported by the agency then responsible for the study data. Any appeal pursuant to this section shall not result in a change to any of the study data. In addition, if the study data being used has been published by the Federal Emergency Management Agency for comment as a draft or preliminary FIRM:
    - (A) The appeal process shall be limited to the application of the study data by the County to the specific application that is the subject of the appeal;
    - (B) 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;

- (C) Any outcome of the appeal to the County is in no way binding on the Federal Emergency Management Agency, nor will it affect or limit any action the Federal Emergency Management Agency may take; and
  - (D) Any challenge to the use of the study data as the basis for a FIRM should be separately addressed to the Federal Emergency Management Agency under the applicable federal rules.
- (c) For any special flood hazard area for which a floodway has not been designated, the applicant may 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.
  - (d) If an official floodplain map is not available, the owner of property to be developed shall calculate the boundaries of the 100-year floodplain in accordance with the City of Austin's Drainage Criteria Manual and submit the calculation to the Floodplain Administrator for review.

**§ 64.007. Availability of Flood Insurance Study and Flood Insurance Rate Map**

The Flood Insurance Study and the Flood Insurance Rate Map and any subsequent revisions or amendments thereto that are being administered as provided in this chapter are available for public inspection in the office of the Executive Manager of TNR during normal business hours.

**§ 64.008. Floodplain Administrator Authorized to Promulgate Guidelines**

The Floodplain Administrator is expressly authorized to promulgate any guidelines for administration of this chapter that are consistent with the requirements of this chapter and applicable state and federal laws and regulations.



**§ 64.009. Obstruction of Waterways Prohibited**

Unless authorized by a site plan approved under applicable Travis County rules, a person may not place or cause to be placed an obstruction in a waterway.

**§ 64.010. Duty to Maintain Unobstructed Waterways**

The person in control of real property traversed by a waterway shall keep the waterway free from an obstruction that is not authorized by a site plan.

**§ 64.011. Standing Water Declared a Nuisance**

A pool of standing water in a waterway that is caused by an unauthorized obstruction in the waterway is declared to be a nuisance.

## **§ 64.012. Abrogation and Greater Restriction**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, the provisions of this chapter shall take precedence over any less restrictive conflicting law, order, ordinance, code, or official determination. All other regulations inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only. For purposes of this chapter, the Floodplain Administrator shall determine which of these conflicting laws, orders, ordinances, codes, or official determinations are most restrictive, and his decision in this regard shall be final.

### **§ 64.013. Warning and Disclaimer of Liability**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on maps promulgated by the Federal Emergency Management Agency which are required to be used as a condition for obtaining flood insurance. These maps are based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. Neither the regulations established hereunder nor the issuance of permits hereunder or other approvals granted pursuant to this chapter are intended to imply that lands outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damage. This order does not create liability on the part of the Travis County Commissioners Court or any County officer, employee, agent, or department, the State of Texas, the Federal Insurance and Mitigation Administration, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

**§ 64.014. Severability**

If any provision of this ordinance, or the application thereof, to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid portion, and to this end the provisions of this ordinance are declared to be severable.

[Sections 64.015-64.030 Reserved for Expansion.]

## SUBCHAPTER B. DEFINITIONS.

### § 64.031. Definitions

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

**“A” Permit** – means Basic Development Permit (the two terms are interchangeable).

**“B” Permit** – means Special Flood Hazard Area (“SFHA”) Development permit (the two terms are interchangeable).

**“Accessory use”** means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

**“Accessory structure”** means an appurtenant structure.

**“Agriculture”** means the use of land to produce plant or animal products, including fish or poultry products, under natural conditions but does not include the processing of plant or animal products after harvesting or the production of timber or forest products.

**“Agricultural use”** means any use or activity involving agriculture, including irrigation.

**“Appeal”** means a request for a review of the Floodplain Administrator’s interpretation of any provision of this order by the Travis County Commissioners Court.

**“Appurtenant structure”** means a structure which is on the same parcel of property as the principal structure to be insured and which is incidental to the use of the principal structure.

**“Area of shallow flooding”** means a designated AO 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 one to three feet where a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**“Area of special flood hazard”** means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on a Flood Hazard Boundary Map (“FHBM”) or FIRM as Zone A, AO, and AE. Synonymous with “Special flood hazard area”

**“Area of special flood-related erosion hazard”** –See “Flood-related erosion area” or “Flood-related erosion prone area.”

**“Base Flood”** means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the “100-year flood”). “Base flood” is the term used throughout this order.

**“Base Flood Elevation”** (“BFE”) means the elevation shown on the Flood Insurance Rate Map (FIRM) for Flood Zones A, AE, AO that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

**“Basement”** means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

**“Benchmark”** refers to a surveyor’s mark made on a permanent landmark of known position and altitude based on a standard reference plane established by the federal government from which elevations are measured. On official FEMA flood maps, benchmarks are referenced to the National Geodetic Vertical Datum (NGVD) of 1929 or National Geodetic Vertical Datum (NGVD) of 1988. See “Elevation Reference Mark.”

**“Building”**—see “Structure”

**“Certificate of compliance”** means a notarized statement, from the applicant for any permit issued under this chapter, to the effect that the applicant has received all permits, licenses, or approvals then required by federal law, statute or regulation, including but not limited to, permits issued under the authority of Section 404 of the Federal Water Pollution Control Act Amendments of 1972, or required by or under any statute, rule, or regulation of the State of Texas.

**“Commissioners Court”** means the Travis County Commissioners Court.

**“Development”** means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures, a change in the use of improved or unimproved real estate, mining, dredging, filling, grading, paving, surfacing, excavation operations, drilling operations, the storage of equipment or materials, and the clearing of land for the purpose of preparing a site for any man-made change to improved or unimproved real estate.

**“Division Director”** means the Division Director of Development Services of the Travis County Transportation and Natural Resources Department.

**“Drainage Basin”** means all of that portion of land which contributes runoff water to a waterway.

**“Dry Dock Barge”** means a non-residential, commercial structure that is permanently attached to pilings through collars or other engineered means or is otherwise a floating structure that is not self-propelled or readily towable given a two-hour warning time and is dependent on land-based utilities and services, provided that the structure is dry, flood-proofed, and certified by a Registered Professional Engineer.

**“Elevation Reference Mark”** or (“ERM”) means a point of vertical ground elevation reference to be shown on the FIRM for comparison to the BFE. ERMs shall be referenced to the National Geodetic Vertical Datum (NGVD) of 1929 or the National Geodetic Vertical Datum (NGVD) of 1988.



**“Elevation certificate”** means a statement from an engineer or surveyor licensed by the State of Texas on the most current FEMA form certifying that the lowest floor of the structure has been elevated at least as high as required by this chapter.

**“Encroachment”** means any use or the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain which may impede or alter the flow capacity of a floodplain.

**“Executive Manager”** means the Executive Manager of the Travis County Transportation and Natural Resources Department.

**“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) was completed before April 1, 1982.

**“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 (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**“Final Plat”** means a map or drawing of a proposed subdivision prepared in a manner suitable for recording in the County records and prepared in conformance with the conditions of any Preliminary Plan approval previously granted by the County.

**“Flood” or “flooding”** means:

- (a) 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.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**“Flood Hazard Areas”** means the maximum area of the floodplain likely to be inundated by the 100-year flood.

**“Flood Hazard Boundary Map (FHBM)”** means an official map of a community, issued by Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

**“Flood Insurance Rate Map (FIRM)”** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**“Flood Insurance Study”** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood. Synonymous with “Flood Elevation Study.”

**“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-related erosion”** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical level or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusually and unforeseeable event which results in flooding.

**“Flood-related erosion area”** or “Flood-related erosion prone area” means a land area adjoining the shore of a lake or other body of water, which, due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

**“Flood-related erosion area management”** means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to, emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

**“Floodplain or flood-prone area”** means any land area susceptible to being inundated by water from any source - see **“Flooding”**.

**“Floodplain Administrator”** is the individual appointed by the Division Director to administer and enforce the floodplain management regulations.

**“Floodplain management”** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**“Floodplain management regulations”** means this chapter, subdivision regulations, health and safety regulations, special purpose orders (such as orders pertaining to grading and erosion control), and other applications of police power which control development in flood-prone areas. This term describes federal, state, and local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

**“Floodproofing”** means any combination of structural and nonstructural additions, changes, or adjustments to new or existing structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 for guidelines on dry and wet floodproofing.)

**“Floodproofing certificate”** means a certificate issued by a registered professional engineer licensed in the State of Texas which states that he has developed and/or reviewed the structural design, specifications, and plans for the construction of the structures or improvements covered by the certificate and that the design and methods of construction are in accordance with accepted standards of practice for meeting the following requirements:

- (a) The floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and,
- (b) Together with attendant utility and sanitary facilities, the structures are designed so that below the base flood level the structures are watertight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

**“Flood Profile”** means a profile including profiles provided by FEMA showing various flood water surface levels along a waterway, including the regulatory flood profile.

**“Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. Also referred to as “Regulatory Floodway”.

**“Floodway fringe”** is that area of a floodplain on either side of the “Regulatory Floodway” where encroachment may be permitted.

**“Flood Insurance Rate Map”** (“FIRM” ) means an official map of a community on which the FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community.

**“Fraud and victimization”** as related to Division 4 of Subchapter C of this order (Variances), means that a variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Commissioners Court will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

**“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.

**“Governing Body”** means the Travis County Commissioners Court, which is empowered to adopt and implement regulations to provide for the public health, safety, and general welfare of its citizenry.

**“Hardship”** as related to Division 4 of Subchapter C, Variances, of this order means the exceptional hardship that would result from a failure to grant the requested variance. The Commissioners Court requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**“Highest adjacent grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**“Historic structure”** means any structure that is:

- (a) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a

district preliminarily determined by the Secretary to qualify as a registered historic district;

- (c) individually listed on the State of Texas inventory of historic places;
- (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) by an approved state program as determined by the Secretary of the Interior, or
  - (2) directly by the Secretary of the Interior in states without approved programs

**“Levee”** means a human-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 of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor as long as such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 C.F.R. sec. 60.3. (see FEMA Technical Bulletin T-10-01)

**“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 attached 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.

**“Market value”** means the value of a structure as established by one of the following:

- (a) The improvement value assigned to the structure by the Travis Central Appraisal District;
- (b) The computed actual cash value as determined by the FEMA-approved Residential Substantial Damage Estimator (RSDE) methodology;
- (c) An appraisal performed not more than eighteen (18) months prior to a flood event by a certified real estate appraiser licensed by the Texas Appraiser Licensing and Certification Board; or
- (d) Any other similar method acceptable to the Floodplain Administrator.

Market value shall not include the value of land, landscaping, or detached accessory structures on the property.

**“Mean sea level”** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (“NGVD”) of 1929 or National Geodetic Vertical Datum (“NGVD”) of 1988, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**“Minimum flood protection elevation”** means the base flood elevation plus 12 inches.

**“National Geodetic Vertical Datum” (“NGVD”)** as corrected in 1929 and again in 1988 is a vertical control used as a reference for establishing elevations. If a datum other than NGVD 88 is used, then the datum listed as the reference datum on the applicable FIRM panel for use on Elevation Certificate completion will be used.

**“New 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. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after April 1, 1982, and includes any subsequent improvements to such structures.

**“New manufactured home park or subdivision”** means a manufactured home park or subdivision with more than two manufactured homes for rent or sale where 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 September 1, 1999.

**“Non-Conforming Use”** means any development that does not conform to FEMA Code of Federal Regulations (“CFR”) for the National Flood Insurance Program (“NFIP”) or to provisions of this order.

**“Non-Residential”** refers to and includes, but is not limited to, business concerns, churches, schools, farm buildings (including grain bins and silos), pool-houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, subdivision infrastructure, roadway construction, warehouses, and hotels or motels with normal room rentals for less than 6 months’ duration, and more than 2 manufactured homes for rent or sale.

**“Obstruction”** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**“One-hundred-year flood”** or “100-year flood” – see **“Base flood”**.

**“Plat”** means a map, chart, survey, plan, or replat of a specific land area such as a town, section, or subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, easements, landmarks, and monuments depicted.

**“Preliminary Plan”** means a map or drawing of a proposed subdivision illustrating the features of the development submitted either as a required part of an application for approval of a Final Plat or, at the election of the Owner, prior thereto, for preliminary approval.

**“Post-FIRM Construction”** means construction or substantial improvement that started on or after April 1, 1982, the effective date of the initial Flood Insurance Rate Map (FIRM) for Travis County.

**“Pre-FIRM Construction”** means construction or substantial improvement which started on or before April 1, 1982, the effective date of the initial Flood Insurance Rate Map (FIRM) for Travis County.

**“Recreational vehicle”** means a vehicle which is

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

**“Regulatory floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**“Remedy a violation”** means to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the order or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

**“Repetitive Loss”** means flood-related damages sustained by a structure on two occasions during a ten year period, for which the cost of repair, at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

**“Residential”** refers to a single family, mobile home, or multi-family dwelling, related structures and accessory uses.

**“Riverine”** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**“Sheet flow area”** - see **“Area of shallow flooding”**.

**“Site Plan”** means a plan for a development, other than a subdivision construction plan, submitted by an applicant to demonstrate that the development complies with the requirements of this chapter and other applicable Travis County regulations.

**“Solid Waste”** means solid, liquid, semisolid, or contained gaseous waste resulting from or incidental to municipal, community, commercial, industrial, agricultural, mining, or recreational activities, including sludge, garbage, rubbish, refuse, ashes, street cleanings, dead animals, abandoned automobiles, and other discarded material. The term does not include either solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Chapter 26, Water Code, or soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements.

**“Special flood hazard area (SFHA)”** means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It may be shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

**“Start of construction”** includes substantial improvement and other proposed new development 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 from the date of the permit. 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 piers, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture 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 a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**“Structure”** means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

**“Subdivision”** means the division of any lot, tract, or parcel of land into two or more lots, sites, or dwelling units, where such division will require the reservation of land for public or private access to the lots, sites, or dwelling units created or where such division is for the purpose of building development, whether immediate or future. This includes condominium regimes and manufactured home parks.



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

**“Substantial improvement”** means any reconstruction, rehabilitation, addition, or other proposed new development of a structure or infrastructure, the cost of which equals or exceeds 50 percent of the market value of the structure or infrastructure, before the “start of construction” of the improvement. Any repair, reconstruction, or improvement of a structure or infrastructure made since March 28, 1995 shall accumulate toward the fifty percent (50%) figure. The term “substantial improvement” includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (a) any project for improvement of a structure to correct existing violations or 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
- (b) 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 from the requirements of this order which permits construction in a manner that would otherwise be prohibited by this order

**“Violation”** means the failure of a structure or other development to be fully compliant with this order. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this order is presumed to be in violation until such time as that documentation is provided.

**“Water surface elevation”** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or Geodetic Vertical Datum (NGVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**“Watercourse”** means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**“Water Surface Elevation”** - heights in relation to mean sea level to be reached by floods of various frequencies at pertinent point in the floodplain.

**“Waterway”** - a river, stream, creek branch, drainway or natural or artificial water course including any portions thereof which are ponds, lakes, or reservoirs, and which confines and conducts continuously or periodically flowing water.

[Sections 64.032 to 64.040 reserved for expansion]

## **SUBCHAPTER C. Regulatory System for Permits and Plats**

### **Division 1. Generally**

#### **§ 64.041. In general**

No building permit, paving permit, utility construction permit or other permit required for a structure or development shall be issued, and no plat shall be approved, unless the applicant demonstrates that the permit or plat meets the applicable requirements of this chapter, or unless a variance, excepting such structure or development from the provisions of this chapter, is granted under the terms of this chapter.

## **§64.042. Duties of the Floodplain Administrator**

The Floodplain Administrator is charged with exercising best engineering judgment in the administration and implementation of the provisions of this chapter. His duties in this regard shall include, but are not limited to, the following:

- (a) Maintaining for public inspection and furnishing upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a FHBM or FIRM, all records pertaining to the provisions of this chapter, including a record of all floodproofing certificates filed hereunder with the specific elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and including whether or not such structures contain a basement, and if a structure has been floodproofed, the elevation, (in relation to mean sea level) to which the structure is floodproofed.
- (b) Reviewing, approving, or denying all applications for development permits required by the adoption of this chapter.
- (c) Reviewing applications for development permits to ensure that all necessary licenses, approvals, or permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
- (d) Where interpretation is needed as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), making the necessary interpretation of the maps which shall be liberally construed by the Floodplain Administrator in favor of inclusion of the site in a special flood hazard area.
- (e) Notifying adjacent communities and the State Coordinating Officer prior to any alteration or relocation of a watercourse which will have a discernable effect on the adjacent community, and submitting evidence of such notification to the Federal Emergency Management Agency.
- (f) Notifying adjacent communities prior to substantial commercial developments and large subdivisions to be undertaken in areas having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards.
- (g) Cooperate with the responsible local, state, and federal agency to maintain the flood-carrying capacity of the altered or relocated portion of any watercourse within the unincorporated areas of the County.
- (h) When and where base flood elevation data has not been provided, obtaining, reviewing and reasonably utilizing any base flood elevation data and floodway data available from a federal, state or other source including any information obtained in connection with the provisions of Section 64.006 of this chapter, as criteria in administering the applicable provisions of this chapter.

- (i) Where an amendment or supplement to a FIRM that is being administered as provided in Section 64.006 of this Code expresses base flood elevation based on different data than the FIRM it amends or supplements, reconciling the conflicting data to determine the more restrictive base flood elevation.
- (j) To collect all fees set by the Commissioners Court necessary to recover costs incurred in meeting the requirements of this chapter.
- (k) To submit on the anniversary date of the County's notification of eligibility in the Flood Insurance Program an annual report to the Federal Insurance Administration on the progress of floodplain management measures in Travis County.
- (l) To perform all other duties necessary to insure that the requirements of this order are satisfied.

**§64.043. Floodplain Administrator Authorized to Require Drainage Studies**

- (a) The Floodplain Administrator may require the owner of real property to provide, at the owner's expense, a drainage study for the total area to be ultimately developed. This requirement is a condition of approval for a preliminary plan or for a final plat if a preliminary plan is not required.
- (b) The drainage study must be in accordance with the City of Austin's Administrative Manual and the Drainage Criteria Manual.
- (c) Until the Floodplain Administrator receives the drainage study, the Floodplain Administrator may not accept for review a construction plan for any portion of the proposed development.

#### **§64.044. Stormwater Conveyance and Drainage Facilities**

- (a) The owner or developer of property to be developed is responsible for the conveyance of all stormwater flowing through the property, including stormwater that:
  - (1) is directed to the property by other developed property; or
  - (2) naturally flows through the property because of the topography.
- (b) Future upstream development shall be accounted for as determined under the Drainage Criteria Manual.
- (c) If the construction or improvement of a storm drainage facility is required along a property line that is common to more than one property owner, the owner proposing to develop the property is, at the time the property is developed, responsible for each required facility on either side of the common property line.
- (d) The responsibility of the owner proposing to develop the property includes the responsibility to dedicate or obtain the dedication of any right-of-way or easement necessary to accommodate the required construction or improvement of the storm drainage facility.
- (e) If an owner of property proposes to develop only a portion of that property, a stormwater drainage facility to serve that portion of the property proposed for immediate development or use is required, unless the platting official determines that construction or improvement of a drainage facility outside that portion of the property to be developed is essential to the development or use of the property to be developed.
- (f) The owner or developer shall provide adequate off-site drainage improvements to accommodate the full effects of the development. The County may assist the owner or developer in the acquisition of an interest in property necessary to provide an off-site improvement, if the owner or developer:
  - (1) by affidavit, certifies that a bona fide attempt to provide the off-site drainage improvements has not been successful; and
  - (2) provides an adequate guarantee that the owner or developer will:
    - (A) finance the entire cost of acquiring the necessary property interest; and
    - (B) retain full responsibility for construction of the required off-site improvement.

**§ 64.045. Dedication of Easements and Rights-of-Way**

- (a) The owner of real property proposed to be developed shall dedicate to the public an easement or right-of way for a drainage facility, open or enclosed, and stormwater flow to the limits of the 100-year floodplain.
- (b) An easement or right-of-way required by Subsection (A) must be:
  - (1) a minimum of 25 feet in width for an open drainage system; or
  - (2) a minimum of 15 feet in width for an enclosed drainage system.
- (c) The owner of the property shall dedicate any additional easement or right-of-way that is necessary to allow continuous access for the operation, maintenance, or rehabilitation of a drainage facility.
- (d) A part of a lot or tract of land that is located in an easement or right-of-way required by this section may be included as part of the area of the lot or tract of land in the calculation of density or impervious cover.

**[Sections 64.046-64.050 reserved for expansion]**

## **DIVISION 2. PLAT PROCEDURE**

### **§64.051. Plat approval; issuance**

- (a) Any person who is required or elects to obtain a plat shall also comply with the provisions of this chapter, if applicable, and any applicable subdivision regulations adopted solely or jointly by the Travis County Commissioners Court.
- (b) When a person files an application for approval of a plat, the approval of the plat is subject to the approval of a drainage plan for the property that is the subject of the plat application if the property is located in whole or in part in a special flood hazard area within the County. The drainage plan shall include the base flood elevation data for the property certified as true and correct on the face of the drainage plan by a registered professional engineer licensed in the State of Texas. If alternative base flood elevations exist for the property because of the administration of supplemental data as provided in this chapter, the drainage plan shall include both base flood elevations.
- (c) If an official floodplain map is not available, the owner of property to be developed shall calculate the boundaries of the 100-year floodplain in accordance with the City of Austin Drainage Criteria Manual and submit the calculation to the Floodplain Administrator for approval.
- (d) If the Floodplain Administrator determines that Federal Emergency Management Agency regulations require a submission to the agency of a request for a flood insurance rate map revision, the Floodplain Administrator may require that the owner of property to be developed submit the revision request.
- (e) A person who files an application for approval of a preliminary plan, final plat, subdivision construction plan, or site plan shall depict, as applicable:
  - (1) on a preliminary plan or subdivision construction plan:
    - (A) a 100-year floodplain;
    - (B) a FEMA floodplain; and
    - (C) a drainage easement or proposed drainage easement;
  - (2) on a final plat:
    - (A) a drainage easement; and
    - (B) a portion of a FEMA floodplain that is outside a drainage easement;  
or
  - (3) on a site plan:
    - (A) a 100-year floodplain;
    - (B) a FEMA floodplain; and



- (C) a drainage easement.
- (f) If a portion of a FEMA floodplain is outside a drainage easement, the owner of property to be developed shall, on a final plat:
  - (1) identify the portion of the FEMA floodplain that is outside the drainage easement, including the community and panel number of the flood insurance rate map; and
  - (2) include a note that:
    - (A) refers the reader to federal regulations governing development in a FEMA floodplain;
    - (B) states that flood insurance may be required; and
    - (C) describes efforts to revise the flood insurance rate map.
- (g) The Floodplain Administrator shall review the drainage plan and determine whether the development will be reasonably safe from flooding and whether such proposed development is:
  - (1) Consistent with the need to minimize flood damage within the special flood hazard area;
  - (2) To be constructed so that all public utility facilities including, but not limited to, sanitary sewer, gas, water and electrical systems are located and constructed so as to minimize flood damage from the base flood;
  - (3) To be constructed so that drainage is provided to reduce exposure of such development to flood hazards; and
  - (4) Would comply with the applicable requirements of Subchapter D (Standards for Flood Hazard Reduction) of this chapter.
- (h) If the proposed development satisfies the criteria in subsection (g) of this section, the Floodplain Administrator shall approve the drainage plan and shall so notify the Commissioners Court in writing.
- (i) The Commissioners Court shall not approve a final plat until the Floodplain Administrator has approved the drainage plan for that site. If the proposed development requires mitigation pursuant to Section 64.062 of this Code, the final plat and deed shall identify the location and volume of the mitigation as a feature of the property. The obligation to have a mitigation feature shall continue in perpetuity and shall run with all the land covered by the development permit. The owner of the land shall have the obligation to have and comply with the development permit unless that obligation is transferred to another person pursuant to rules and regulations promulgated by the Floodplain Administrator pursuant to Section 64.008 of this Code.

- (j) All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) shall include base flood elevation data within such proposals.

**[Sections 64.052-64.060 reserved for expansion]**

## **DIVISION 3. THE PERMIT PROCESS**

### **§ 64.061. Regulatory Process for Permits; Expiration of Permits**

- (a) A development permit or Flood Hazard Area Development Permit is required before any construction or other development begins within the unincorporated areas of Travis County including the following: the initial disturbance of soils associated with clearing, grading, drilling, or excavation activities, as well as other construction-related activities (e.g., stockpiling of fill material, demolition, etc.), the subdivision of land, installation of utilities, the placement and replacement of manufactured homes, new construction and repair, reconstruction, rehabilitation, or additions to new construction and substantial improvement of existing buildings and structures, including restoration after damage. All non-residential development and multi-family dwellings with four or more units shall also comply with any applicable subdivision regulations adopted solely or jointly by the Travis County Commissioners Court. Any development within a special flood hazard area shall be unlawful without a development permit, regardless of whether a plat is required under any applicable subdivision regulations adopted solely or jointly by the Travis County Commissioners Court. A development permit is required in addition to any other permit that may be required for the development activities proposed.
- (b) Except as provided in Section 64.182, a permit is not required to clear vegetation solely for agricultural purposes unless (i) an application to develop the land for a non-agricultural use has been granted or is pending or (ii) the clearing of vegetation is for preparation of a development plan as indicated by the existence of contracts or marketing plans for non-agricultural development of the land. The Floodplain Administrator may waive the requirement for a permit after determining that the clearing has a bonafide agricultural purpose and is unrelated to the proposed development or sale of the land for non-agricultural uses. A person is not required to obtain a permit to clear vegetation in an area up to 15 feet wide to perform surveying, geologic testing, or other required site assessment in preparation for site plan or final plat approval if the clearing will not:
  - (1) result in an obstruction to a waterway;
  - (2) alter a natural floodplain or stream channel; or
  - (3) cause excessive increases in erosion, flood heights, or velocities.
- (c) Any change in use of property within a special flood hazard area that is reasonably likely to change the conveyance capacity or diminish the storage volume of the special flood hazard area, including, but not limited to, the construction, alteration, or removal of structures, the removal or addition of fill, and the clearing of vegetation, is unlawful without a development permit.
- (d) development permit will expire:

- (1) If development has commenced, then upon completion of the project for which the permit was granted or after five years have elapsed from the date the permit was issued, whichever occurs first; or
- (2) If development has not commenced, 180 days after the permit was issued.

## **§ 64.062 Development Permit Application.**

- (a) An applicant for a development permit shall submit a development permit application on forms furnished by the Floodplain Administrator for that permit along with plans in triplicate, drawn to scale, showing:
- (1) The existing topography and the location, dimensions of the area in question, and elevation of the lot, fill, storage of materials, and any proposed alterations, including landscape alterations;
  - (2) Existing and proposed structures, including the placement of manufactured homes;
  - (3) The location of the proposed alterations in relation to special flood hazard areas;
  - (4) Elevation in relation to mean sea level of the lowest floor of all proposed structures and substantial improvements;
  - (5) Elevation in relation to mean sea level to which any structures will be or have been floodproofed;
  - (6) If the site is adjacent to a watercourse or drainage channel, the definition of how that watercourse or drainage channel will be impacted;
  - (7) Base flood elevations from effective FIRM data for all structures and substantial improvements; except that, this information is not required for Zone A where base flood elevation data has not been provided and must be developed from federal, state, or other sources; and
  - (8) For all new construction, additions to existing structures, and substantial improvements, all base flood elevation lines and corresponding labels, as shown on the FIRM, that intersect the proposed development, as well as the nearest base flood elevation lines and corresponding labels both upstream and downstream of the site.
  - (9) Valley cross-sections showing the waterway, elevation of land areas adjoining each side of the channel, cross-sections of areas to be occupied by the proposed development, and regulatory flood water surface elevation of that section.
  - (10) Plans showing elevations of contours of the ground; size, location, and spatial arrangement of all proposed and existing structures on the site. The topographic (contour) information where required shall be certified as accurate by a Registered Professional Engineer, or Public Land Surveyor.
  - (11) Location and elevation of streets, water supply, and sanitary facilities.
  - (12) Photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.

- (13) A profile showing the slope of the bottom of the waterway or flow line of the stream.
  - (14) Detailed hydraulic calculations prepared by a Registered Professional Engineer showing the net effect of the proposed development on all hydraulic parameters of the waterway(s), and also showing that the proposed development will not change the conveyance capacity or diminish the storage volume of the special flood hazard area. Such calculations shall also be accompanied by detailed hydrologic computations of the regulatory flood levels and discharges through the affected waterways unless such levels and discharges are furnished by the Floodplain Administrator.
  - (15) All specifications and details necessary for complete review of design for such building construction as the Floodplain Administrator may reasonably require any flood-proofing within the flood hazard area and for filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities within the Flood Hazard Area.
  - (16) A description of the proposed development including use and number of units; address and legal description of the proposed development; heated and cooled (HVAC) square footage of the structure; approximate cost of the proposed development and; the name and mailing address of the property owner and permit applicant.
  - (17) Permit fees in accordance with the current fee schedule adopted by the Commissioners Court.
  - (18) Foundation design detail, including but not limited to:
    - (i) proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
    - (ii) for a crawl-space foundation, location and total net area of foundation openings as required in FEMA Technical Bulletins 1-93 and 7-93; and
    - (iii) for foundations placed on fill, the location and height of fill, and compaction to be achieved (compacted to a minimum of 95 percent using the Standard Proctor Test method);
  - (19) the proposed elevation in relation to mean sea level to which any structure without living space will be floodproofed, as required in FEMA Technical Bulletin TB 3-93;
  - (20) a description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (b) Each sheet in the plans on which elevations are marked shall include the vertical datum and adjustment, consistent with the effective FIRM, along with the site

benchmark used for vertical control; except that, if the plan elevations are not on the same vertical datum as the base flood elevations shown on the effective FIRM, each sheet in the plans on which elevations are marked shall also show tabulated vertical datum differences.

- (c) The applicant shall also provide a certificate of compliance with copies of all supporting permits, licenses, and approvals, and a floodproofing certificate where floodproofing is or may be required by the applicable provisions of this chapter.
- (d) For areas that the Floodplain Administrator has determined have no conveyance capacity, the applicant shall submit documentation that demonstrates that the development will not, at any time, diminish the storage volume of the special flood hazard area and:
  - (1) Identifies an amount of de minimis fill associated with pier and beam construction for which mitigation is not required, in accordance with rules and regulations promulgated by the Floodplain Administrator pursuant to Section 64.008 of this Code; or
  - (2) Demonstrates that any loss of storage volume will be mitigated on-site, such that there is no net fill; or
  - (3) Demonstrates that any loss of storage volume will be mitigated off-site in accordance with rules and regulations promulgated by the Floodplain Administrator pursuant to Section 64.008 of this Code; or
  - (4) Demonstrates any combination of items (1) through (3) of this subsection.
- (e) For areas that the Floodplain Administrator has determined to have conveyance capacity and for areas for which the Floodplain Administrator has made no determination of conveyance capacity, the applicant shall submit an engineering analysis certified by a professional engineer licensed in the State of Texas that demonstrates that the development will not, at any time, either change the conveyance capacity or diminish storage volume of the special flood hazard area; except that, if the applicant submits a Conditional Letter of Map Revision approved by the Federal Emergency Management Agency, the engineering analysis need only demonstrate that the development will not, at any time, diminish storage volume of the special flood hazard area.
- (f) The Floodplain Administrator shall, from time to time, prepare and submit for approval by motion of the Commissioners Court a schedule of fees that shall be paid by an applicant for a development permit or a variance. Payment of any applicable fees when due is a condition of the processing of any application under this chapter.
- (g) In addition to other responsibilities under this chapter, the Floodplain Administrator shall review each permit application to verify compliance with the provisions of this chapter.

**§ 64.063. State and Federal Permits**

- (a) For proposed development within the flood hazard area, the applicant or his agent shall verify that all necessary reviews and/or permits have been received from those governmental agencies from which approval is required by Federal or State law.
  
- (b) Where the proposed development is within the flood hazard area of waterways meeting the sustained flow criteria of Section 404 of the Federal Water Pollution Control Act Amendments of 1972, the applicant or his agent shall verify that the construction meets the blanket permit requirements in effect in the State of Texas under Section 404, or shall provide evidence that a special permit for the development has been issued by the Corps of Engineers under Section 404.



**§ 64.064. Other Approvals and Permits**

- (a) All applicable federal, state, county, and city requirements and/or approvals shall be acquired prior to issuance of a County development permit.
- (b) Permits and fees required by different agencies shall not preclude the need for a Travis County development permit. Permit fees for the County development permit will not be waived due to any concurrent jurisdiction.

## **§ 64.065. Additional Requirements**

Where flood-proofing measures are required, they shall be designed consistent with the regulatory flood water surface elevation for the particular area, flood velocities, duration, and other factors associated with the regulatory flood. The Floodplain Administrator may require that the applicant for a development permit submit a special flood-proofing plan that includes, but is not limited to, the following measures:

- (1) Anchorage to resist flotation and lateral movement.
- (2) Installation of watertight doors, bulkheads, and shutters, or similar methods of construction.
- (3) Reinforcement of walls to resist water pressures.
- (4) Use of paints, membranes, or mortars to reduce seepage of water through walls.
- (5) Addition of mass or weight to structures to resist flotation.
- (6) Installation of pumps to lower water levels in structures or relieve flood pressures.
- (7) Construction of water supply and waste-treatment systems so as to prevent the entrance of flood waters.
- (8) Construction to resist rupture or collapse caused by water pressure or floating debris.
- (9) Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into buildings and structures.
- (10) Location of all electrical equipment and circuits consistent with the need to protect them from inundation.
- (11) Location of all storage facilities for chemicals, explosives, buoyant materials which may be hazardous to public health, safety, and welfare outside of the floodplain;
- (12) A survey, signed and sealed by a public surveyor licensed in the State of Texas, of property ownership of the site,
- (13) An interim drainage plan for the site for the duration of the development activities;
- (14) An indication of the source of fill material and the proposed disposal site, if applicable, and the expected duration of the development activities;
- (15) An engineering analysis, signed and sealed by a registered professional engineer licensed in the State of Texas, as required by the Floodplain Administrator; and
- (16) Any other relevant documentation requested by the Floodplain Administrator.

#### **§ 64.066. Approval or Denial of Development Permit**

The Floodplain Administrator's decision to grant or deny a permit will be based on all of the provisions of this order and the following factors:

- (a) The danger to life and property due to flooding or erosion;
- (b) The susceptibility of the proposed development and the contents of any structure to flood damage and the effect of such damage on the individual owner;
- (c) The danger that materials may be swept onto other properties or cause injury to others;
- (d) The compatibility of the proposed use with existing and anticipated development including compliance with platting provisions;
- (e) The safety of access to and exit from the site in times of flood for ordinary and emergency vehicles;
- (f) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
- (g) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (h) The necessity to the facility of a waterfront location, where applicable;
- (i) The availability of alternative locations not subject to flooding or erosion damage for the proposed use; and
- (j) The compatibility of the proposed use to the comprehensive plan for that area.

**§ 64.067. Work on public property**

- (a) If the Floodplain Administrator determines that the proposed development or substantial improvements will occur entirely within public streets, roads, easements, rights-of-way, or public property of any kind, the Floodplain Administrator shall deny the application for a permit unless and until the applicant has obtained the approval of the Commissioners Court for proceeding with the development.
- (b) If the Floodplain Administrator determines that the proposed development or substantial improvements will occur partly within public streets, roads, easements, rights-of-way, or property of any kind and partly within property owned by the applicant or the applicant's principal, the Floodplain Administrator may deny the application unless and until the applicant shall have secured the approval of the Commissioners Court for proceeding with the development.
- (c) If the applicant secures the approval of the Commissioners Court pursuant to subsection (a) or subsection (b) or if the Floodplain Administrator elects to issue a permit without the approval of the Commissioners Court pursuant to subsection (b), then a Flood Hazard Area Permit ("B" Permit) shall be required, regardless of whether any portion of the proposed development or substantial improvements will occur in the flood hazard area. In such case, the Floodplain Administrator shall be authorized to require, in addition to any other requirements which may be required for a Flood Hazard Area Permit, such information, documentation, and security as may be reasonably necessary to ensure that the portion of the proposed development or substantial improvements which will occur within public streets, roads, easements, rights-of-way, or property of any kind, shall be completed in a good and workmanlike manner and in accordance with the plans and specifications presented to the Floodplain Administrator, including, but not limited to, a performance bond, letter of credit, or cash deposit in the full amount of the cost of completion, as estimated by the Floodplain Administrator, of that portion of the proposed development or substantial improvements which will occur within public streets, roads, easements, right-of-way, or property of any kind.

**§ 64.068. Posting of Permit**

Upon issuance of an “A” permit or a “B” permit, the applicant shall post the “hard copy” at a conspicuous location adjacent to the job site and protected from the elements.

## § 64.069. Inspections

- (a) A permit holder must, as a condition of the permit, allow County inspectors to enter and inspect the land or premises that is the subject of the permit.
- (b) An applicant for an approval under this chapter shall agree in writing to allow County inspectors to enter and inspect the land or premises that is the subject of the application during approval and development.
- (c) Inspections shall be performed by the Floodplain Administrator or his agents at various intervals for all construction for which a “B” permit is issued, unless specifically exempted below:
  - (1) Two inspections may be made for buildings and structures within the flood hazard area; a foundation inspection (after the foundation is in) and a mechanical/electrical inspection (when all mechanical/electrical equipment is exposed in place). For residences and other buildings to be elevated above the flood level in subdivisions where building slab locations and elevations have been previously established and approved, the Floodplain Administrator may waive foundation inspections or receipt of satisfactory field notes and certification by a Registered Professional Engineer or Public Land Surveyor of the State of Texas to the effect that the foundations are set to the approved elevation.
  - (2) The permittee shall notify the Floodplain Administrator 48 hours before construction is ready for the above inspection.
  - (3) No use or occupancy of construction for which a “B” permit has been issued will be allowed until a final inspection has been made by the Floodplain Administrator or his agent or satisfactory certification has been received and a signed “Certificate of Occupancy” has been issued. County approval of properties for issuance of federally subsidized flood insurance will be contingent on issuance of the “Certificate of Occupancy.” For the purposes of this regulation, a copy of the “B” permit with inspections noted or certification attached and bearing the words “Certificates of Occupancy” followed by the dated signature of the Floodplain Administrator or his authorized agent, shall be a Certificate of Occupancy meeting the requirements of this paragraph.
  - (4) The Floodplain Administrator or his agent may enter any structure or premises to perform any duties or responsibilities imposed by this chapter.

**§ 64.070. Elevation Certificate**

- (a) If the development is a residential or non-residential structure the lowest floor elevation required will be noted on the permit. Inspection to assure that this elevation has been met shall be performed by a Registered Professional Engineer, Licensed Architect, or Public Land Surveyor of the applicant's choice. When the inspection has been performed, the inspector shall sign and seal the appropriate space on the required Elevation Certificate, and shall return a copy of this certificate to the Floodplain Administrator's Office. Upon receipt by the Floodplain Administrator's Office of the satisfactorily completed elevation certificate, the permit application process shall be considered complete, and no further construction or development activities may be implemented pursuant to that permit.
  
- (b) A permittee shall submit an elevation certificate to the Floodplain Administrator before the framing of a structure has started. Failure to do so may result in the revocation of a permit issued hereunder.

## **§ 64.071. Revocation of Permits**

- (a) In addition to the remedies provided in Subchapter H, whenever the Floodplain Administrator finds that there are grounds for suspension or revocation of a permit, he shall give written notice to the permittee by personal service or by certified mail, return receipt requested, addressed to the applicant at the address set forth in the permit application. That notice shall set forth:
- (1) The specific grounds upon which the permit in question may be suspended or revoked;
  - (2) The fact that the suspension is in effect when the permittee or his agent is notified of the suspension and a written suspension notice is posted on the property. The notice is deemed to have been given on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the applicant at the address set forth in the permit application.
  - (3) The fact that the permittee has fourteen (14) days to commence work to complete action necessary to abate the suspension or the penalties of this chapter will be applied. The suspension will be abated when corrective work is performed and has passed inspection.
  - (4) After completion of the presentation of evidence by all parties appearing, the Commissioners Court shall make written findings and render a written order as to whether or not there are grounds for suspension or revocation of the permit. If there are such grounds, the Commissioners Court shall suspend or revoke the permit; provided, the Commissioners Court may, in the interest of justice, take such other lesser actions as it may deem appropriate including, but not limited to, the temporary suspension of the permit, the revision of the permit, or the addition of permit conditions. A true and accurate copy of the Commissioners Court's order shall be personally delivered or mailed by certified mail, return receipt requested, to the permittee.
- (b) In the event a permit is revoked, suspended, or revised hereunder by the Floodplain Administrator, the County shall not be liable to any person for any refund of any part of the any permit fees.
- (c) Grounds for suspension or revocation of a permit include, but are not limited to: refusal to make corrections as may be required by the Floodplain Administrator, allowing work to be covered so an inspection cannot be made, or denial of access for inspections to the Floodplain Administrator or his agent.
- (d) The Floodplain Administrator may also suspend or revoke a permit if the permit was issued in error.

[Sections 64.072-64.090 reserved for expansion]



## **DIVISION 4. VARIANCES.**

### **§ 64.091. Statement Regarding Variances**

FEMA regulations require that the Floodplain Administrator maintain a record of all variance actions, including justification for their issuance, and to report such variances either annually or biennially to the Federal Insurance Administrator. The Federal Insurance Administrator may review the County's findings justifying the granting of variances, and if that review indicates a pattern inconsistent with the objectives of sound floodplain management, the Federal Insurance Administrator may take appropriate action pursuant to 44 C.F.R. section 59.24(b), including placing the County on probation status and charging additional premiums for policies sold or renewed during the period of probation. Because the imprudent granting of variances can jeopardize the eligibility of Travis County property owners to purchase flood insurance through the National Flood Insurance Program, each application for a variance will be carefully scrutinized, and only rarely will the Commissioners Court grant a variance.

## **§ 64.092. Criteria for Granting Variances**

- (a) The issuance of a variance is for floodplain management purposes only. While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in Subsection (c)), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- (b) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result. Variances shall not be granted if they would result in injury to the safety or health of an entire community or neighborhood or any considerable number of persons or if it would obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.
- (c) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of Subsections (d), (e), (f), (g), and (h) of this section.
- (d) Variances shall only be issued upon:
  - (1) a showing of good and sufficient cause,
  - (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (f) The County shall notify the applicant in writing over the signature of the Floodplain Administrator that (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in Subsection (g) of this section.
- (g) The Floodplain Administrator shall (1) maintain a record of all variance actions, including justification for their issuance, and (2) report such variances issued in its annual or biennial report submitted to the Federal Insurance Administrator.

- (h) Variances may be issued by the Floodplain Administrator for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (1) the criteria of Subsections (b) through (e) of this section are met, and (2) 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.
- (i) Mere economic or financial hardship alone does not constitute an exceptional hardship that justifies the granting of a variance. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise does not constitute an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- (j) A floodway encroachment that increases the level of the design flood may be considered for a variance only if the applicant has applied for a conditional Flood Insurance Rate Map revision and has received the approval of the Federal Emergency Management Agency.

### **§ 64.093. Variance Procedure**

- (a) Any applicant for a permit may apply for a variance from the requirements of this chapter. A variance may be sought only on the basis that the imposition of the requirements of this chapter for the issuance of a permit to the applicant constitutes an exceptional hardship. Variances shall not be granted for development within any floodway if the development cannot meet the requirements of §64.133(b) of this Code.
- (b) An applicant may file a request for variance at any time. However, no variance may be granted after an applicant has complied with the provisions of this chapter and a permit has been issued. An applicant shall file the application for a variance on a written form to be supplied by the Floodplain Administrator, and shall specify in connection therewith:
  - (1) The particular requirement from which a variance is sought;
  - (2) The nature of the hardship presented by the imposition of the requirements;
  - (3) The proposed alternative method or procedure to be utilized in lieu of the required method, practice or procedure that is proposed;
  - (4) The effect of the proposed construction on flood levels within the County;
  - (5) The estimated cost in dollars of complying with the requirement;
  - (6) The estimated cost in dollars of construction by the proposed alternative method of procedure;
  - (7) The size, in acres, of the land area or the number of lots involved in the permit application; and
  - (8) The existence of lots contiguous to or surrounding the land area which are located below the base flood level.
- (c) In addition, the applicant shall file a verified acknowledgment that:
  - (1) The granting of a variance for construction below the flood level will result in increased flood insurance rates commensurate with the increased risk resulting from the reduced lowest floor elevation; and
  - (2) Construction below the base flood level increases risks to life and property to the applicant and the residents of this County and the surrounding area.

**§ 64.094. Restriction on Applicants; Fee for Application**

A variance application may be filed by the owner of the property or the attorney-in-fact for the owner of such property. Such application shall be submitted as a verified statement. A fee as provided in Section 64.062 of this Code shall accompany each variance application.

**§ 64.095. Review by the Commissioners Court of Variance Application**

- (a) The Floodplain Administrator shall receive, and transmit to the Commissioners Court, all applications for variances. The Commissioners Court shall determine whether a variance will be granted. The Commissioners Court shall hear and render judgment on an application for a variance 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 chapter. The Commissioners Court may consider the granting of a variance under the following circumstances:
- (1) The application is for the reconstruction, rehabilitation, or restoration of an historic structure and the reconstruction, rehabilitation, or restoration of the structure will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (2) The application is for improvement of an existing structure that is required to correct an existing violation of a state or local health, sanitary or safety code specification that has been identified by the neighborhood protection official and that is the minimum necessary to ensure safe living conditions.
  - (3) The application is for a development for which the Floodplain Administrator finds that the granting of the variance is consistent with the procedures and standards established for the granting of variances. As the lot size increases, the burden on the applicant to provide a technical justification in favor of a variance under the facts of the case shall increase.
  - (4) The application is for an addition, new construction of, or for substantial improvements to, a structure necessary for the conduct of a functionally dependent use provided that:
    - (A) The applicable requirements of Sections 64.093, 64.094, and 64.095 are met;
    - (B) The structure or other development will be protected by methods designed to minimize flood damage during the base flood; and
    - (C) The structure will create no additional threats to public safety.
  - (5) The variance is essentially an appeal from the application of a special flood hazard area or base flood elevation determination or both being administered on the basis of supplemental data pursuant to §64.006 of this Code and the applicant demonstrates, with the concurrence of the agency then responsible for the study data, that the determination is scientifically or technically incorrect. The variance shall be limited to approval, with or without conditions, or denial of the permit, plat or other

approval that was denied and shall not constitute a change in the study data.

- (b) The Commissioners Court shall deny variances to disaggregated lots of proposed larger developments or subdivisions or structures when that larger development has been the subject of or included within a permit application that has been previously disapproved by the Floodplain Administrator.
- (c) In addition, in order to grant a variance, the Commissioners Court must affirmatively find that:
  - (1) The imposition of the requirements of this chapter constitutes an exceptional hardship on the applicant;
  - (2) No feasible method or procedure is currently available to comply with the requirement; and
  - (3) The imposition of the requirements of this chapter to the particular circumstances would be unjustified in light of a good and sufficient cause which can be demonstrated to the Commissioners Court.
- (d) In granting a variance, the Commissioners Court must find that the variance, if allowed, will not have the effect of:
  - (1) Increasing flood level height due to impedance of the stream of channel flow;
  - (2) Introducing or increasing any threat to public safety;
  - (3) Creating a nuisance which unreasonably interferes with the use of adjacent property;
  - (4) Causing a fraud to be worked upon the public or any individual member of the public;
  - (5) Causing extraordinary public expense for any reason; and;
  - (6) Creating conflict with any provisions of the Travis County Code or with any provisions of a state or federal regulation other than the applicable requirements of this chapter.
- (e) The Commissioners Court, in granting a variance, shall grant only the minimum variance necessary to afford relief from the complained of hardship.
- (f) A notice of variance shall be addressed to the applicant, and shall be signed by the County Judge, or in his absence, the Executive Manager of TNR, and shall state:
  - (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance

commensurate with the increased risk resulting from the reduced lowest floor elevation; and,

- (2) The construction under a variance of any structure below the base flood level may increase risks to life and property to the applicant and the residents of this County and the surrounding area.
- (g) Upon receipt of the notice of variance, the applicant shall file a copy of that notice in the permanent deed records of the county or counties in which the property is located.
- (h) Upon the receipt of a copy of the notice of variance certified by the county clerk of the county in which the property is located, the Floodplain Administrator shall issue a permit complying with all provisions of this chapter with the exception of the variance granted.
- (i) The Floodplain Administrator shall maintain a permanent public record of all notices of variance and the variances granted. The written justification for the granting of each variance shall be included in such records.
- (j) The denial of a variance by the Commissioners Court shall be final and is not subject to reconsideration.

[Sections 64.096-64.110 reserved for expansion]



## **SUBCHAPTER D. STANDARDS FOR FLOOD HAZARD REDUCTION**

### **DIVISION 1. GENERALLY**

#### **§ 64.111. General Construction of Structures**

- (a) All structures, including manufactured homes, shall be constructed or substantially improved, regardless of location within the County, so as to be reasonably safe from flooding.
- (b) In addition to any other applicable provisions of this chapter and any other applicable statutes, rules, and regulations, all structures located within a special flood hazard area must comply with Division 2 of this subchapter.
- (c) In addition to any other applicable provisions of this chapter and any other applicable statutes, rules, and regulations, all structures to be constructed or substantially improved in a watercourse or floodway must comply with Divisions 2 and 3 of this subchapter.

[Sections 64.112-64.120 reserved for expansion]

## **DIVISION 2. STANDARDS IN SPECIAL FLOOD HAZARD AREAS**

### **§ 64.121. General Standards**

All new construction and improvement of any existing structure in special flood hazard areas shall be performed so as to keep the structure reasonably safe from flooding and in accordance with the following standards:

- (a) All improvements shall be designed or so modified so as to be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in the presence of floodwaters;
- (b) All improvements shall be constructed by methods and practices so as to minimize flood damage;
- (c) All improvements shall be constructed with materials and equipment resistant to flood damage;
- (d) All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (e) All water supply systems, including new and replacement water supply systems, shall be designed to prevent or eliminate infiltration of floodwaters into the system;
- (f) All sanitary sewer systems, including new and replacement sanitary sewer systems, shall be designed to prevent or eliminate infiltration of floodwaters into the structure's systems and discharge of sewage into floodwaters;
- (g) All on-site disposal systems, including but not limited to sewage treatment plants and septic tank systems located on the site of the structure, shall be located so as to prevent impairment of the function of those systems in the presence of floodwaters and to prevent contamination of floodwaters from those systems during flooding;
- (h) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
- (i) Adequate drainage must be provided to reduce exposure to flood hazards, including adequate paths around structures on slopes to guide flood waters around and away from proposed structures;
- (j) Fully enclosed areas below the lowest floor that are used solely for parking, building access, or storage in an area other than a basement and that 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 architect or

professional engineer licensed in the State of Texas or meet or exceed the following minimum criterion: have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, with the top of all such openings no higher than one foot above grade or BFE, whichever is lower. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters;

- (k) No rise of BFE in the floodplain: No new construction, substantial improvements, or other development (including cut and/or fill) shall be permitted within zones A, AE, and AO on the County's flood insurance rate maps unless:
  - (1) it is first demonstrated by engineering data submitted by the applicant's engineer in accordance with the various requirements and procedures set forth in this order that the cumulative effect of the proposed development will not increase the water surface elevation of the base flood:
    - (A) on adjacent properties,
    - (B) at any point within the County, or
    - (C) immediately adjacent to neighboring communities; and
  - (2) a Conditional Letter of Map Revision ("CLOMR") has been approved by FEMA. A Letter of Map Revision ("LOMR") must also be obtained by the applicant upon completion of the proposed encroachment;
- (l) Compensatory storage: Whenever any portion of a floodplain is authorized for use, the space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. All such excavations shall be constructed to drain freely to the watercourse. Any general alteration or development of the floodplain using this method requires a FEMA approved Letter of Map Change ("LOMC");
- (m) New development or substantial improvement in the 100-year floodplain may not increase erosive water velocity on-site or off-site; and
- (n) New development or substantial improvement in the 100-year floodplain will require a Letter of Map Change for any development that alters the floodplain.

## **§ 64.122. Base Flood Elevation Requirements in Special Flood Hazard Areas**

- (a) The following additional requirements apply to residential structures:
- (1) All additions to, and new construction and substantial improvement of, any residential structure, including basement, within an AO Zone shall have the lowest floor and all utilities elevated above the highest adjacent grade to a height at least two feet above the depth number specified on the FIRM for the site. If the floor elevation of a garage attached to an addition is lower than the minimum flood protection elevation, the garage must meet the requirements of Section 64.121(j) of this Code.
  - (2) All additions to, and new construction and substantial improvement of, any residential structures within Zones A, A1-30, and AH shall have the lowest floor, including basement, and all utilities elevated above at least two feet above the base flood elevation. If the flood elevation of a garage attached to an addition is lower than the minimum flood protection elevation, the garage must meet the requirements of Section 64.121(j) of this Code.
  - (3) All additions to, and new construction and substantial improvement of, any residential structure within Zones A10-30, AE, and AH shall have the lowest floor, including basement, and all utilities elevated above at least one foot above the base flood elevation.
- (b) The following additional requirements apply to non-residential structures:
- (1) All additions to, and new construction and substantial improvement of, any nonresidential structure within Zone AE shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation or, together with attendant utility and sanitary sewerage facilities, be completely floodproofed to or above that level 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.
  - (2) All additions to, and new construction and substantial improvement of, any nonresidential structure within Zone A or Zone AO shall:
    - (A) have the lowest floor, including basement, elevated to at least two feet above the base flood elevation; or
    - (B) together with attendant utility and sanitary sewerage facilities, be completely floodproofed to at least one foot above the base flood elevation so that below this 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) Where a nonresidential structure is required to be made watertight below the base flood elevation, the applicant must have a registered professional engineer or architect licensed in the State of Texas
  - (A) develop and/or review structural design, specifications, and plans for the construction and
  - (B) certify that the design and methods of construction:
    - (i) are in accordance with accepted standards of practice for making the structure floodproof and 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 and
    - (ii) comply with the requirements of Section 64.122(b)(1) if the structure is in Zone AO, and Section 64.122(b)(2) if the structure is in Zone A or Zone AE. A record of such certificates, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be provided to Floodplain Administrator who shall maintain such records.
- (c) All structures to be constructed in whole or in part within Zones AH and AO shall be designed with adequate drainage paths around structures on slopes to guide floodwaters around and away from those structures.
- (d) For critical facilities located in an area that is subject to a 0.2 percent or greater chance of flooding in any given year (shaded Zone X), all additions, new construction, and substantial improvements shall have the lowest floor elevated or floodproofed to at least 12 inches above the elevation that is subject to a 0.2 percent or greater chance of flooding.

[Sections 64.123-64.130 reserved for expansion]

### **DIVISION 3. DEVELOPMENT IN A WATERCOURSE AND FLOODWAY**

#### **§ 64.131. Generally**

In addition to complying with the standards set out in Division 2 of this subchapter, development in a watercourse or a floodway shall comply with the provisions of this division.

**§ 64.132. Watercourses**

The alteration or relocation of any watercourse maintained by a county or a county agency shall not be permitted unless the county engineer who is responsible for flood control in the county in which the property is located certifies in writing to the Floodplain Administrator that the flood-carrying capacity of the watercourse will be the same as or greater than the flood-carrying capacity that existed prior to the proposed development.

### § 64.133. Floodways

- (a) Except as otherwise provided in this section, no permit shall hereafter be issued for a development to be located in any floodway, or any special flood hazard area for which a floodway has not been designated, if that development provides for:
  - (1) Encroachment by the deposition of fill, or other similar construction, within the floodway, or the special flood hazard area if no floodway has been designated; or
  - (2) New construction, additions to existing structures, or substantial improvement of any structure within the floodway, or the special flood hazard area if no floodway has been designated.
- (b) For those facilities necessary to protect the health, safety and welfare of the general public, the Floodplain Administrator may issue a permit for development of a site or the new construction, addition to an existing structure, or substantial improvement of a structure within the floodway, or any special flood hazard area for which a floodway has not been designated, if a professional engineer licensed in the State of Texas submits supporting documentation or an engineering analysis acceptable to the Floodplain Administrator and written certification to the effect that:
  - (1) The cumulative effect of the proposed development when combined with all other existing development, and if a floodway has not been designated, all anticipated development, will not have an adverse effect on flood levels at any point within the County during occurrence of the base flood;
  - (2) The construction will not impede the flow of floodwaters; and
  - (3) The construction will not result in an adverse effect on the conveyance capacity during the occurrence of the base flood.
- (c) The Floodplain Administrator may issue a permit for development for the construction of a bridge or the repair or replacement of an existing bridge in a floodway, or any special flood hazard area for which a floodway has not been designated, if the Floodplain Administrator determines that:
  - (1) The cumulative effect of the proposed construction when combined with all existing development, and if a floodway has not been designated, all anticipated development, will result in a zero increase in flood levels at any point within the County during occurrence of the base flood; and
  - (2) The bottom of the lowest horizontal structural member of the bridge, excluding the pilings or columns, will be elevated at least 18 inches above the base flood level. If the Floodplain Administrator determines that construction to this elevation is not practical based upon the application of sound engineering principles to the proposed construction, the elevation geometry, the attendant roadway geometry, and the necessity for the



bridge to be built or reconstructed in the proposed location, the Floodplain Administrator may approve deviation from this standard.

- (d) Whenever a permit is denied pursuant to Section 64.133(a)(2) and the Commissioners Court finds and determines in writing that:
  - (1) the improvement is insubstantial;
  - (2) this insubstantial construction will not increase flood levels during occurrence of the base flood; and,
  - (3) this insubstantial improvement will not impede the flow of floodwaters, then the Floodplain Administrator may issue a permit only if all of the other applicable provisions of this chapter have been met by the applicant for the permit.

**§ 64.134. Encroachments within Adopted Regulatory Roadway**

- (a) Encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the adopted regulatory floodway unless:
  - (1) an applicant demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge, or
  - (2) The applicant applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions, and receives a Conditional Letter of Map Revision (“CLOMR”) approved by the Federal Emergency Management Agency Administrator.

[Sections 64.135-64.140 reserved for expansion]

**SUBCHAPTER E. MANUFACTURED HOMES**  
**Division 1**

**§ 64.141. Generally**

- (a) The provisions of this chapter shall be in addition to any other applicable requirements, standards, and restrictions contained in the Travis County Code relating to manufactured homes, including, but not limited to, regulations adopted solely or jointly by the Travis County Commissioners Court relating to subdivisions and on-site sewage facilities. In the event of conflict between the requirements of this chapter and any other requirement adopted by the Travis County Commissioners Court, the provisions of this chapter shall prevail.
- (b) The applicants for a manufactured home permit where the manufactured home will be located within a special flood hazard area shall submit a development permit application and shall comply with the standards set forth in this chapter specifically including those standards contained in this subchapter.
- (c) Manufactured home subdivisions shall be designed in compliance with Travis County's "Standards for Construction of Streets and Drainage in Subdivisions" and shall dedicate the flood hazard area as a drainage easement. All manufactured homes in the subdivision shall require a permit, with no allowance for move-ons.
- (d) Existing Manufactured Homes in Non-Conformance. An existing manufactured homes in non-conformance with this chapter shall be brought into compliance with this chapter if it is moved off its site, damaged more than 50% of its fair market value, or proposed to have substantial improvements.

**§ 64.142. Development Permit Required**

A development permit must be obtained in order to place or substantially improve a manufactured home within Zones A, AO, AE, X, and anywhere else in the unincorporated areas of the County.

[Sections 64.142-64.150 reserved for expansion]

## **DIVISION 2. PLACEMENT STANDARDS**

### **§ 64.151. Generally**

All manufactured homes shall be placed in locations in the County that are reasonably safe from flooding, and the Floodplain Administrator is hereby authorized to promulgate such written standards as may be deemed appropriate to determine such flood safety. In addition to such standards within special flood hazard areas, the requirements of this Division 2 shall apply.

## § 64.152. Required elevations

- (a) A manufactured home must be elevated on a permanent foundation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement if the manufactured home is to be placed or substantially improved on a site that is located:
  - (1) outside an existing manufactured home park or subdivision;
  - (2) in a new manufactured home park or subdivision;
  - (3) in an expansion to an existing manufactured home park or subdivision; or
  - (4) in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred substantial damage as a result of a flood.
  
- (b) A manufactured home must be elevated on a permanent foundation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement if the manufactured home is to be placed or substantially improved on a site that is located in an existing manufactured home park or subdivision:
  - (1) that is not being expanded, and
  - (2) that does not contain a manufactured home that has incurred substantial damage as a result of a flood.
  
- (c) For each manufactured home located on a site described in subsection (a) or subsection (b):
  - (1) if the site is located within Zone AE, the lowest floor of the manufactured home shall be elevated at least one foot above the base flood elevation.
  - (2) if the site is located within Zone A, the lowest floor of the manufactured home shall be elevated at least two feet above the base flood elevation.
  - (3) if the site is located within Zone AO, the lowest floor of the manufactured home shall be elevated above the highest adjacent grade to a height of at least two feet above the depth number specified in feet on the FIRM or at least two feet above the base flood elevation or at least two feet above the elevation specified on the FIRM.
  
- (d) All manufactured home chassis must be 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 floatation, collapse, and lateral movement.

**§ 64.153. Flood Safety**

Each manufactured home and its site and substantial improvements to manufactured home sites shall:

- (a) Be designed or modified to prevent flotation, collapse, or lateral movement of the manufactured home in the presence of floodwaters;
- (b) Be constructed with materials and types of utility equipment which are resistant to flood damage; and
- (c) Be constructed by methods and practices that minimize flood damage.

**§ 64.154. Utility Systems Protection**

- (a) All new and replacement water supply systems for manufactured homes shall be designed to prevent or eliminate the infiltration of floodwaters into the water supply system and the utility system supplying water to the manufactured homes.
- (b) All new and replacement sanitary sewage systems for manufactured homes shall be designed to prevent:
  - (1) The infiltration of floodwaters into such systems; and,
  - (2) Discharge from such systems into floodwaters.
- (c) All on-site disposal systems, including but not limited to, sewage treatment plants and septic tanks located on the lot or site of the manufactured home or connected by a utility system to the manufactured home, shall be located so as to:
  - (1) Prevent impairment of the function of the system during flooding; and
  - (2) Prevent contamination of floodwaters from the system during flooding.



## § 64.155. Special requirements for manufactured homes

All manufactured homes placed in, and all substantial improvements to manufactured home sites within, special flood hazard areas shall be secured as follows:

- (a) *Anchors:* All manufactured homes shall be elevated and anchored to resist flotation, collapse, or lateral movement in the presence of floodwaters by providing over-the-top or frame ties to ground anchors. All ground anchors shall be set in concrete poured to a depth resistant to natural erosion caused by floodwater. In addition, all anchoring systems shall comply with all applicable provisions of state law or regulations. All components of the anchoring system for manufactured homes shall be capable of carrying a force of 4,800 pounds.
- (b) *Tie-downs:*
  - (1) Over-the-top ties shall be provided at each of the four corners of the manufactured home.
  - (2) Manufactured homes in excess of 50 feet in length shall have two side ties in addition to the above-described corner ties, which shall be placed at intermediate locations; manufactured homes less than 50 feet in length shall have one additional tie per side.
- (c) *Frame ties:*
  - (1) A frame tie shall be placed at each corner of the manufactured home.
  - (2) Manufactured homes in excess of 50 feet in length shall have five additional ties placed on each side at intermediate locations; manufactured homes less than 50 feet in length shall have four additional ties per side placed at intermediate locations.
- (d) *Additions to manufactured homes:* All additions to a manufactured home shall be anchored in the same manner as a manufactured home.
- (e) *Flood elevation of manufactured home:*
  - (1) The stand or lot on which a manufactured home is placed shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is at least at the minimum flood protection elevation.
  - (2) Adequate surface drainage and access for a hauler shall be provided at each manufactured home lot or stand and at the entrance of a manufactured home park or subdivision.
  - (3) A manufactured home placed on pilings shall be placed on a lot large enough to permit steps wholly on the manufactured home lot.
  - (4) Pilings shall be placed in stable soil not more than ten feet apart, center to center, and shall be reinforced if they extend more than six feet above

ground level. A registered professional engineer licensed in the State of Texas must certify in writing that the size, strength, and treatment processes for wooden pilings and methods of reinforcement for those pilings are sufficient to prevent flotation, collapse or lateral movement of the manufactured home in the presence of floodwaters.

**§ 64.156. Manufactured Home Placement in a Floodway or Coastal High Hazard Area**

Manufactured homes to be placed in a floodway or a coastal high hazard area shall also specifically comply with divisions 3 and 4 of this subchapter.

[Sections 64.166 to 64.170 reserved for expansion]

### **DIVISION 3. SUBDIVISIONS AND DEVELOPMENT**

#### **§ 64.171. Plats for Manufactured Home Parks and Subdivisions**

No plat shall be issued for a manufactured home park or subdivision unless it complies with the provisions of Section 64.051 and the provisions of this subchapter.

**§ 64.172. Evacuation Plan**

All persons who operate a manufactured home park or subdivision within any special flood hazard area shall file an evacuation plan with the Travis County Fire Marshal, the Travis County Emergency Management Coordinator, and the emergency services district in which the park or subdivision is located indicating alternate vehicular access and escape routes for such park or subdivision prior to the granting of a permit.

[Sections 64.173 to 64.180 reserved for expansion]

## **SUBCHAPTER F. MISCELLANEOUS**

### **§ 64.181. Certain Prohibitions relating to Recreational Vehicles**

- (a) An owner of a recreational vehicle must obtain a permit in accordance with the provisions of this chapter before placing the recreational vehicle in Zones A, AE, or AO on Travis County's FIRM.
- (b) Any recreational vehicle placed in Zones A, AE, or AO on Travis County's FIRM:
  - (1) must not remain on the site for 180 consecutive days or more;
  - (2) must be fully licensed and ready for highway use; and
  - (3) must meet the permit requirements and the elevation and anchoring requirements set forth in this chapter for "manufactured homes."
- (c) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site by quick disconnect type utilities and security devices, has no permanently attached additions, and has current vehicle registration and inspection stickers or tags affixed.

## **§ 64.182. Agricultural Development in Floodplains**

- (a) Except as provided in subsection (b), a permit is not required in order to continue agricultural use of property located in a special flood hazard area.
- (b) A permit must be obtained pursuant to the provisions of this chapter and any other applicable city, county, state, and federal statutes and regulations if any of the following applies:
  - (1) The agricultural use or a proposed change in the agricultural use is reasonably likely to:
    - (A) result in an obstruction to a waterway;
    - (B) alter a natural floodplain or stream channel; or
    - (C) cause excessive increases in erosion, flood heights, or velocities.
  - (2) The agricultural use or any proposed change in agricultural use of property is reasonably likely to change the conveyance capacity or diminish the storage volume of the special flood hazard area, including the construction, alteration, or removal of structures.
  - (3) There is a proposal to place, construct, or substantially improve a structure on the property, including the construction of houses, storage sheds, barns, and garages.
  - (4) There is a proposal to construct or alter a pond, terrace, dam, dike, ditch, or levee.
  - (5) There is a proposal to engage in one or more of the following activities on the property: mining, dredging, filling, grading, paving, surfacing, excavating, or drilling.

### **§ 64.183 Utilities and Individual Septic Tank Systems**

- (a) Except as provided in Subsection (b), a basic development permit or special flood hazard area development permit must be obtained prior to the installation, repair, or removal of all utilities, including as water and wastewater lines, on-site waste disposal systems, gas lines, telephone and electric lines and related facilities.
- (b) A permit does not have to be obtained prior to performing emergency repairs to a utility, but written notice must be provided to the Floodplain Administrator on the next County business day as to the location of the repair, the nature of the repair, the name of the person conducting the repairs, the name and address of the property owner, and the name and address of the person who requested the repairs. For the purpose of this subsection, an emergency repair is a repair that is necessary to mitigate or prevent an immediate threat to the health and safety of the public.
- (c) No sewage treatment plant, septic tank system, or other on-site sewage disposal system shall be operated when there are floodwaters over any portion of the on-site sewage disposal system.



## § 64.184. Dry Dock Barge Exemption

- (a) This section applies only to nonresidential, commercial structures which were in existence on March 28, 1995, the date the Travis County Commissioners Court adopted a cumulative substantial damage rule. When a nonresidential, commercial structure that was in existence on March 28, 1995 has sustained damage as a result of a flood event, the owner of that structure may apply for a Dry Barge Exemption to redesign the structure as a Dry Dock Barge. A Dry Dock Barge Exemption may be granted by the Floodplain Administrator provided the owner meets the following criteria:
- (1) A registered professional engineer or architect licensed in the State of Texas shall certify the Dry Dock Barge in accordance with 44 CFR § 60.3(c)(4).
  - (2) A registered professional engineer in the State of Texas shall certify that the Dry Dock Barge:
    - (i) includes a barge anchor system that has been designed and constructed to prevent the barge from moving onto or over adjacent properties or over insurable improvements located on the owner's property during a flood event up to and including the 100-Year Flood, and
    - (ii) shall not increase the water surface elevation of the 100-year floodplain on adjacent properties.
  - (3) A Dry Dock Barge shall provide for a satisfactory means of evacuation prior to a Flood and an acceptable means of accessing the Dry Dock Barge during a period of Flooding.
  - (4) The owner shall provide a verified written statement to the Floodplain Administrator acknowledging that:
    - (i) the preexisting, non-residential, commercial structure has suffered substantial damage;
    - (ii) the Dry Dock Barge will be constructed in lieu of making repairs or improvements to such structure;
    - (iii) the anchor system for the Dry Dock Barge shall be maintained according to the design certified by an engineer pursuant to Section 64.184(a)(2)(i); and
    - (iv) the owner may not be eligible for flood insurance coverage or federal disaster assistance with respect to the Dry Dock Barge.
- (b) Upon the granting of a Dry Dock Barge Exemption, a Dry Dock Barge shall be exempt from this ordinance and its owner shall comply with the following rules:

- (1) Except for those trained personnel necessary to assure the structure remains anchored, a Dry Dock Barge shall remain unoccupied during a flood as defined in this chapter.
- (2) A Dry Dock Barge shall be demolished and removed by its owner in the event:
  - (i) the owner's business becomes insolvent, is placed in receivership or bankruptcy, or ceases to carry on in the ordinary course of business;
  - (ii) a resolution or order is passed for the winding up or liquidation of the owner's business; or
  - (iii) such barge is significantly damaged in any manner.
- (3) The owner shall be prohibited from making any repairs or improvements to the pre-existing, non-residential, commercial structure, including but not limited to maintenance of any kind, and shall only be allowed to remove such structure from the property.

## **§ 64.185. Non-Conforming Uses**

- (a) A structure, or the use of a structure or premises, which was lawful before the adoption of this Chapter, but which does not conform with the requirements of these regulations, may be continued subject to the follow conditions:
  - (1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
  - (2) No substantial improvement to the structure shall be made unless the structure is changed to conform to these regulations.
  - (3) If a nonconforming use is discontinued for a period of 90 days or more, any future use of the building or premises shall conform to these regulations.
  - (4) Any nonconforming use or structure which is destroyed by any means, including floods, or which has sustained substantial damage shall not be reconstructed except in conformance with the provisions of these regulations.
- (b) The following procedures shall be used to determine whether a structure or use of a structure has sustained substantial damage pursuant to this section:
  - (1) The owner shall obtain an estimate of fair market value for the structure which has been damaged.
  - (2) The owner shall obtain an estimate for the cost of repairs to the damaged structure. Acceptable estimates can be obtained from the following sources:
    - (A) itemized estimate (as to both materials and labor) made by licensed contractors or other professional estimators in the construction industry; and
    - (B) for insured structures damaged by floods, the monetary damage estimated by the National Flood Insurance Program claims adjuster (structure only, not contents).
  - (3) The owner shall provide an estimate for the cost of repairs or improvements which have been made to the structure since March 28, 1995.
  - (4) The owner shall submit a completed application form along with the requested cost and appraised value figures to the Transportation and Natural Resources Department permit counter.
- (c) Upon receipt of the information outlined in Section 64.185(b), the Floodplain Administrator shall verify the accuracy of the information and determine if the structure has been, or will be, substantially improved as a result of the repair work or other improvements which have been or need to be made. If the value of repairs or improvements does not constitute a Substantial Improvement as defined in this

chapter and does not exceed 50% of the market value of the structure, then a permit will be issued by the Floodplain Administrator to begin the repairs. If the value of repairs or improvements exceeds 50% of the market value of the structure or constitutes a substantial improvement, then a permit will be denied unless the structure is to be reconstructed outside of the floodplain or constructed in accordance with the standards set forth in this chapter for new developments and substantial improvements.

## **§ 64.186. Stormwater Management Controls**

### **(a) General**

- (1) Due to the rapid onset of development in unincorporated areas of Travis County the Floodplain Administrator requires that developments which exceed 20% impervious coverage ratio, when calculated against the total property, control the increased stormwater. These controls will be of a method by which the County will be assured that present flooding conditions will not be increased by the development. This requirement has been in effect since April 1, 1982, when the County went into the regular phase of the National Flood Insurance Program.
- (2) Improvements and/or development prior to April 1, 1982 are exempt from these controls, but any impervious material “grandfathered” shall be used in calculating the impervious coverage ratio for future development.
- (3) Individual single-family residences shall not be required to conform to these controls.

### **(b) Design of Stormwater Management Controls**

When development exceeds the 20% impervious coverage ratio, the permit applicant shall have a Registered Professional Engineer licensed in the State of Texas provide a plan with supporting calculations to attenuate the effects of the proposed increased stormwater. The normal design of these controls shall be as per the City of Austin’s Drainage Criteria Manual. Any other method proposed shall require prior approval by The Floodplain Administrator.

[Sections 64.187 to 64.220 reserved for expansion]

## **SUBCHAPTER G. SOLID WASTE MANAGEMENT OR DISPOSAL FACILITIES IN OR NEAR FLOODPLAINS**

### **§ 64.221. Definitions.**

Unless the context clearly requires otherwise, in this subchapter:

- (a) "Disposal" means the discharging, depositing, injecting, dumping, spilling, leaking, or placing of solid waste.
- (b) "Executive Manager" means the Executive Manager of the Travis County Transportation and Natural Resources Department.
- (c) "Management" means the systematic control of the activities of generation, source separation, collection, storage, transportation, processing, treatment, composting, recycling, beneficial use, resource recovery, land application, or other handling of solid waste.
- (d) "FEMA One Hundred Year Floodplain" means an area identified as a one hundred year floodplain on flood insurance rate maps or flood boundary and floodway maps published by the Federal Emergency Management Agency.
- (e) "Solid waste" means solid, liquid, semisolid, or contained gaseous waste resulting from or incidental to municipal, community, commercial, industrial, institutional, agricultural, mining, or recreational activities, including sludge, garbage, rubbish, refuse, ashes, street cleanings, dead animals, abandoned automobiles, and other discarded material. The term does not include either solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Chapter 26, Water Code, or soil, dirt, rock, sand, and other natural or man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements.
- (f) "Solid waste management or disposal facility" means land, structures, appurtenances, and other improvements on land, used for management or disposal of solid waste, including any incinerator, landfill, transfer station, or land application, beneficial use, or composting site. The term includes a publicly or privately owned solid waste facility consisting of several processing, storage, or disposal operational units such as one or more landfills, surface impoundments, or a combination of units.

**§ 64.222. Prohibition**

- (a) A person may not construct, locate, or operate a solid waste management or disposal facility either in, or within five hundred feet of the boundary of, a one hundred year floodplain.
- (b) The prohibition in this section applies only (i) outside the corporate limits of any municipality, and (ii) to solid waste management or disposal facilities not fully permitted and operating in compliance with all regulatory requirements on the effective date of this ordinance.

**§ 64.223. Variance Procedure**

- (a) A person desiring to obtain a variance from the prohibition contained in §64.222 must meet the requirements of this section. Requests for variances to other requirements of Chapter 64 are governed by Subchapter C.
- (b) A request for a variance must be made in writing to the Executive Manager. The application must include all information necessary to allow the Commissioners Court to make the findings provided in this section. After receiving and evaluating a complete application for a variance, the Executive Manager shall place the application on the agenda of a meeting of the Commissioners Court.
- (c) The Commissioners Court may grant the variance if it finds that (i) the facility meets all other regulatory requirements, including the requirements of this chapter, (ii) no alternative site is available to the applicant, (iii) due to special conditions, strict enforcement of the prohibition on §64.222 would result in an unusual and unnecessary hardship on the applicant, and (iv) all necessary conditions will be imposed upon and all necessary measures will be taken by the applicant to protect public health and safety, including appropriate engineering, design, operation, inspection, monitoring, and financial responsibility.

[Sections 64.224 to 64.240 reserved for expansion]



## SUBCHAPTER H. ENFORCEMENT

### § 64.241. Actions Authorized to Enforce Chapter

- (a) The County, acting through the County Attorney, is hereby authorized to file an action in a court of competent jurisdiction to:
  - (1) Enjoin any person from violating the terms, conditions and restrictions of any permit issued under this chapter;
  - (2) Enjoin the violation of the provisions of this chapter;
  - (3) Recover civil penalties for violation of the terms, conditions and restrictions of any permit issued under this article;
  - (4) Recover civil penalties for violation for the provisions of this article; or
  - (5) Recover damages from the owner of a site in an amount adequate for the County to undertake any construction or other activity necessary to bring about compliance with this chapter.

This authority is in addition to all provisions of this chapter, Chapters 48 and 82 of the Travis County Code, Title 30 of the Austin-Travis County Subdivision Regulations, and any other authority to enforce the provisions of this chapter.

- (b) The County, acting through the County Attorney, is hereby authorized to enter into agreements in lieu of litigation to achieve compliance with the terms, conditions, and restrictions of any permit issued under this chapter.
- (c) The Floodplain Administrator is authorized to:
  - (1) Whenever any work authorized by a development permit is being performed contrary to the provisions of this chapter, or other pertinent laws or ordinances implemented through the enforcement of this article, order the work (other than work to cure a violation) stopped by notice in writing served on any persons performing the work or causing the work to be performed. Any such persons shall forthwith stop the work until authorized by the Floodplain Administrator to proceed with the work.
  - (2) At the time a stop order is issued, the person performing the work and the permit holder shall be given notice of a right to a hearing on the matter during a regularly scheduled meeting of the Commissioners Court. Any stop order that has been issued shall remain in effect pending any hearing that has been requested unless the stop order is withdrawn by the Floodplain Administrator.

**§ 64.242. Criminal Sanctions**

Any person violating any provision of this chapter commits a Class “C” misdemeanor punishable by a fine of not to exceed \$500. Each day that a violation occurs is a separate offense.