

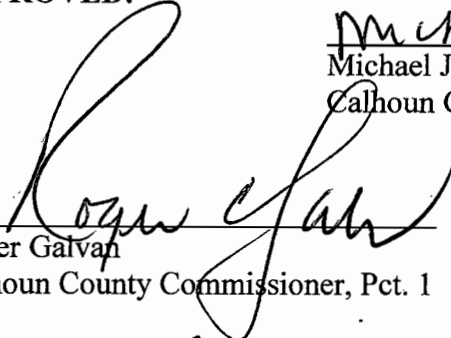
# Flood Damage Prevention Order

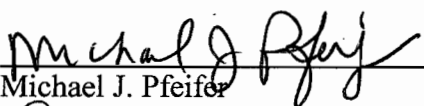
## CERTIFICATION

It is hereby found and declared by Calhoun County Commissioners' Court that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this Order become effective immediately.

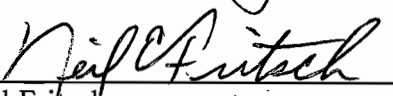
Therefore, an emergency is hereby declared to exist, and this Order, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

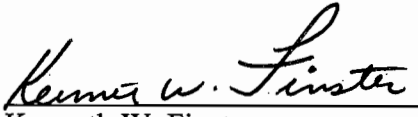
### APPROVED:

  
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Roger Galvan  
Calhoun County Commissioner, Pct. 1

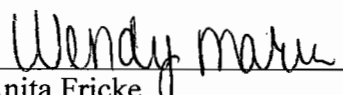
  
\_\_\_\_\_  
Michael J. Pfeifer  
Calhoun County Judge

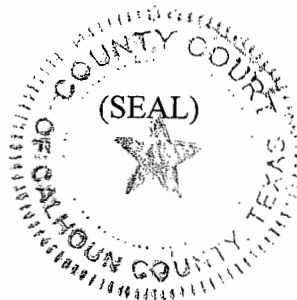
  
\_\_\_\_\_  
Vern Lyssy  
Calhoun County Commissioner, Pct. 2

  
\_\_\_\_\_  
Neil Fritsch  
Calhoun County Commissioner, Pct. 3

  
\_\_\_\_\_  
Kenneth W. Finster  
Calhoun County Commissioner, Pct. 4

I, the undersigned, Co Clerk, do hereby certify that the above is a true and correct copy of an Order duly adopted by Calhoun County Commissioners Court at a regular meeting duly convened on October 23., 2008  
(date)

  
\_\_\_\_\_  
Anita Fricke  
Calhoun County Clerk



# FLOOD DAMAGE PREVENTION COURT ORDER

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**FLOOD DAMAGE PREVENTION ORDER**

**ARTICLE I**

**STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS OF REDUCING LOSSES FROM FLOODS**

**SECTION A. STATUTORY AUTHORIZATION**

The Legislature of the State of Texas has in Texas Water Code §§ 16.311-322 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Commissioners' Court of Calhoun County, Texas, does ordain as follows:

**SECTION B. FINDINGS OF FACT**

- (1) The flood hazard areas of Calhoun County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in flood plains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood proofed or otherwise protected from flood damage.

**SECTION C. STATEMENT OF PURPOSE**

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

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

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

**SECTION D. METHODS OF REDUCING FLOOD LOSSES**

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

(1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

## ARTICLE II

### DEFINITIONS

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

**APPEAL** - means a request for a review of the Floodplain Administrator's interpretation of any provision of this Order or a request for a variance.

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

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

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

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

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

**BASE FLOOD ELEVATION (BFE)** - the elevation shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A-1-30, AR, AR/A, AR/A1-30, AR/AH, AR/AO, V1-30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

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

**BREAKAWAY WALL** - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading

forces, without causing damage to the elevated portion of the building or supporting foundation system.

**CASH VALUE, MARKET VALUE, OR FAIR MARKET VALUE-** shall mean the amount of money within a reasonable period of time, that a person desiring to sell, but not bound to do so, could procure for the property from a person desiring and able to buy, but not bound to do so.

**COASTAL HIGH HAZARD AREA** - means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources, including, but not limited to hurricane wave wash or tsunamis. The area is designated on the FIRM as Zone V1-30, VE, or V.

**COMMISSIONERS' COURT** - means the Commissioners' Court of Calhoun County, Texas.

**COUNTY** - means the unincorporated areas of Calhoun County, Texas.

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

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

**DWELLING OR DWELLING PROPERTY** - means a structure designed for the occupancy of one to four families, including said structure while being constructed, altered, or repaired.

**ELEVATED BUILDING** - means a nonbasement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program (NFIP) regulations.

**ENCLOSURE-** that portion of an elevated building below the lowest elevated floor that is either partially or fully shut in by rigid walls.

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

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

**EXISTING RECREATIONAL VEHICLE PARK** - means a recreational vehicle park for which the construction of facilities for servicing the lots on which the recreational vehicles are to be parked (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by Calhoun County. Utilities must include electricity, water, and sewer.

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

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

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

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

**FLOOD INSURANCE STUDY** - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.

**FLOODPLAIN ADMINISTRATOR** - means the individual, appointed by the Commissioners' Court of Calhoun County, Texas, empowered and charged with the responsibility of implementing and carrying out the terms of this Order. When appropriate, the term, as used herein, shall also apply to any assistants to the Floodplain Administrator, who may be designated as assistants by the Commissioners' Court of Calhoun County, Texas.

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

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

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

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

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

**FLOOD VENTS**- designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.

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

**FREEBOARD**- an additional amount of height above the Base Flood Elevation used as a factor of safety in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with State or community floodplain management regulations.

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

**HABITABLE FLOOR** - means any floor usable for the following purposes which include working, sleeping, eating, cooking, recreation, or a combination thereof. A floor used only for storage is not a "habitable floor". (See Living Space)

**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 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 a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or;
  - (2) Directly by the Secretary of the Interior in states without approved programs.

**INCREASED COST OF COMPLIANCE (ICC)** - Coverage for expenses that a property owner must incur, above and beyond the cost to repair the physical damage the structure actually sustained from a flooding event, to comply with mitigation requirements of State or local floodplain management ordinances or laws. Acceptable mitigation measures are elevation, floodproofing, relocation, demolition, or any combination thereof.

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

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

**LIVING SPACE/AREA** – space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes. (See habitable Floor)

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

**MANUFACTURED HOME/MOBILE HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a

permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For purposes of floodplain management, the term "manufactured home" also means park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

**MANUFACTURED HOME/MOBILE HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale, for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is begun after effective date of the floodplain management regulations adopted by Calhoun County. Utilities must include electricity, water, and sewer.

**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MINOR REPAIR** - means any repair, reconstruction or improvement of a structure, the cost of which is less than One Thousand Dollars (\$1,000.00), or less than ten percent (10%) of the actual cash value of the structure either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, the value before the damage occurred. The lesser of these amounts shall be applied to determine if a repair is a minor repair as contemplated in this Order. Minor repair is stated when the first alteration of any wall, ceiling, floor, or other structural part of the building commences.

**MODULAR BUILDING** – A building that is usually transported to its site on a steel frame or special trailer because it does not have a permanent chassis like a manufactured (mobile) home.

**NEW CONSTRUCTION** - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by Calhoun County and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME/MOBILE HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by Calhoun County. Utilities must include electricity, water, and sewer.

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

**PRIMARY FRONTAL DUNE** - means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to that of a relatively mild slope.

**PROPER OPENINGS – ENCLOSURES (Applicable to Zones A, A1-A30, AE, AO, AH, AR, and AR Dual)** All enclosures below the lowest elevated floor must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. A minimum of two openings, with positioning on at least two walls, having a total net area of not less than 1 square foot of enclosed area subject to flooding must be provided. The bottom of all openings must be no higher than 1 foot above grade.

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

**RECREATIONAL VEHICLE PARK** - means a recreational vehicle park for which the construction of facilities for servicing the lots on which the recreational vehicles are to be parked (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is begun after the effective date of the floodplain management regulations adopted by Calhoun County. Utilities must include electricity, water, and sewer.

**REPETITIVE LOSS STRUCTURE** – An NFIP- insured structure that has had at least two paid flood losses of more than \$1,000 each in any 10-year period since 1978.

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

**SAND DUNES** - mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**START OF CONSTRUCTION** - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of

piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

**SUBSTANTIAL IMPROVEMENT** - means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**UTILITIES** – Whether inside an attached garage or outside the building, all utilities, appliances and equipment must be elevated above the BFE or protected against flood damage. Utilities include plumbing, electrical, gas lines, fuel tanks, heating and air condition equipment.

**VARIANCE** - is a grant of relief to a person from the requirement of this Order when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Order. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

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

**WATER SURFACE ELEVATION** - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## ARTICLE III

### GENERAL PROVISIONS

#### SECTION A. LANDS TO WHICH THIS ORDER APPLIES

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

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

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Calhoun County," dated January 6, 1984, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Order.

#### SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

#### SECTION D. COMPLIANCE

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

#### SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

#### SECTION F. INTERPRETATION

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

- (1) considered as minimum requirements;
- (2) liberally construed in favor of the governing body; and
- (3) deemed neither to limit nor repeal any other powers granted under State statutes.

**SECTION G. WARNING AND DISCLAIMER OR LIABILITY**

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

## ARTICLE IV

### ADMINISTRATION

#### **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Floodplain Administrator is hereby appointed to administer and implement the provisions of this Order and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

- (1) The Floodplain Administrator may also serve in other capacities for Calhoun County.
- (2) The Calhoun County Commissioners' Court may from time to time appoint and designate such assistants or alternates as it deems necessary for the enforcement of the Order.

#### **SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this Order.
- (2) Review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Commission on Environmental Quality, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a county may approve certain development in Zone A1-30, AE, AH, on the county's FIRM, which increases the water

surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article 5.
- (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the county's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the county.

#### **SECTION C. PERMIT PROCEDURES**

- (1) Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by them and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;

A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B (2);

Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

Maintain a record of all such information in accordance with Article 4, Section (B)(1).

- (2) Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Order and the following relevant factors:

The danger to life and property due to flooding or erosion damage;

The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

The danger that materials may be swept onto other lands to the injury of others;

The compatibility of the proposed use with existing and anticipated development;

The safety of access to the property in times of flood for ordinary and emergency vehicles;

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;

The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;

The necessity to the facility of a waterfront location, where applicable;

The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

- (3) The Floodplain Administrator shall enforce the provisions of this regulation and a likewise authorized representative may enter any building, structure, or premises to perform any duty imposed on them by this regulation.
- (4) Upon notice from the Floodplain Administrator that work on any building, structure, dike, bridge, or any improvement which would affect water drainage is being done contrary to the provisions of this regulation or in a dangerous or unsafe manner such work shall stop immediately; such notice shall be in writing and shall be given to the owner of the property or to their agent, or to the person doing the work, and shall state the conditions under which such work may be resumed. However, where an emergency exists, oral notice is sufficient.
- (5) The Floodplain Administrator may revoke a permit or approval issued under the provisions of this regulation in the event of any false statement or misrepresentation of a material fact in the application or plans upon which the approval or permit was based;
- (6) **Permits**
  - (A) When any owner, authorized agent, or contractor desires to construct, enlarge, alter, repair, or move any building, structure, or appurtenance thereto, (to include, without limitation by enumeration, the placement or affixing of any prefabricated structure or

manufactured home to its permanent site) they shall first make application to the Floodplain Administrator for a permit and obtain the required permit therefore before commencing any such construction, repairs, or placement. Such permit shall authorize the recipient thereof to construct, repair, or place the building or structure in accordance with the information contained in the application for permit, but in no event shall such permit constitute authorization for construction or repair in any way affecting the structure other than as disclosed in said application.

- (B) Minor repairs may be made to existing structures with the approval of the Floodplain Administrator without a permit, providing that such repairs shall not violate any of the provisions of this Order.
- (C) Water, sewer, electricity, gas, or other utility service shall not be provided to any structure in the unincorporated areas of Calhoun County unless a permit has been obtained for the structure pursuant to this Floodplain Management Order, and the structure is in compliance with the permit issued, or is exempt under the same regulations from obtaining a permit. The Floodplain Administrator shall contact all providers of utility services prior to the effective date of this Order and notify them of these requirements.

#### **SECTION D. VARIANCE PROCEDURES**

- (1) The Appeal Board as established by the Commissioners' Court shall hear and render judgement on requests for variances from the requirements of this Order.
- (2) The Appeal Board shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Order. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (3) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (4) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C(2) of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (5) Upon consideration of the factors noted above and the intent of this Order, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Order (Article 1, Section C).
- (6) Variances shall not be issued within any designated floodway if any increase in flood levels

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

(8) Prerequisites for granting variances:

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

Variances shall only be issued upon:

- a) showing a good and sufficient cause;
- b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
- c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or orders.

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

(10) Variances may be issued by a county for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

the criteria outlined in Article 4, Section D(1)-(9) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

#### **Section E. PENALTIES FOR NON COMPLIANCE**

(1) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Order and other applicable regulations. Violation of the provisions of this Order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class C misdemeanor for each act of violation and each day is a separate violation.

If it appears that a person has violated, is violating, or is threatening to violate this Order, a political subdivision may institute a civil suit in appropriate court for:

- (A) Injunctive relief to restrain the person from continuing the violation or threat of violation, including an order directing the person to remove illegal improvements and restore preexisting conditions;
  - (B) The assessment and recovery of the civil penalty provided above, or
  - (C) Both the injunctive relief and the civil penalty.
- (2) On application for injunctive relief and a finding that a person has violated, is violating or is threatening to violate this Order, the court shall grant the injunctive relief that the facts warrant.
- (3) Fees
- (A) No permit shall be issued until the fees prescribed in this section shall have been paid, nor shall an amendment to a permit be approved until the additional fee, if any shall have been paid.
  - (B) In the event any person commences any work on a building or structure before obtaining the necessary permit from the Floodplain Administrator, such person shall pay two times the amount the building permit fee would have been.
  - (C) All fees provided hereunder shall be paid to the County Floodplain Administrator and upon receipt issued therefore, the Floodplain Administrator shall, if otherwise satisfied that the applicant is in complete conformity herewith issue the building permit. The County Floodplain Administrator shall be responsible for keeping accurate records of all receipts of fees hereunder.
  - (D) For the issuance of a building permit on all buildings, structures or alterations requiring a building permit, the fees shall be paid at the time of the filing of the application, in accordance with the schedule of fees as set forth below.

- (1) The following schedule of fees for the issuance of development permits are:
- (a) For minor repairs no fee shall be required.
  - (b) For all repairs, improvements, alterations, and construction, the value of which exceeds the definition of minor repairs, the fee shall be \$60.00 regardless of zone.
  - (c) For the moving of any building or structure (not including the removal of such buildings and structures from the county, and not including temporary buildings) the fee shall be \$60.00.
  - (d) For the installation, placing, or moving a manufactured home, modular home, travel trailer, recreational vehicle (“RV”) or portable building (larger than 8’ X 12’) into or within the County, (not including removal from the county) the fee shall be \$60.00.
- (3) The foregoing schedule of fees shall be in effect from and after the date hereof, and shall continue in effect until amended by subsequent resolution of this Commissioners’ Court.

## ARTICLE V

### PROVISIONS FOR FLOOD HAZARD REDUCTION

#### **SECTION A. GENERAL STANDARDS**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

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

New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### **SECTION B. SPECIFIC STANDARDS**

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

**Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in

Article 4, Section C(1)a., is satisfied.

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

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

A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

The bottom of all openings shall be no higher than one foot above grade.

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

### **Manufactured Homes/Mobile Homes/Manufactured Buildings**

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

Require that manufactured homes, mobile homes, and manufactured buildings that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood,

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

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

the lowest floor of the manufactured home is at or above the base flood elevation, or  
the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches above highest adjacent grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

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

be on the site for fewer than 180 consecutive days,

be fully licensed and ready for highway use, or

meet the permit requirements of Article 4, Section C(1), and the elevation and anchoring requirements for "manufactured homes" in the previous paragraph of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

### **SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

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

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

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

All subdivision proposals including the placement of manufactured home parks and subdivisions

shall have adequate drainage provided to reduce exposure to flood hazards.

All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

#### **SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH, B AND C ZONES)**

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

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

All new construction and substantial improvements of **non-residential** structures;

have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least one foot if no depth number is specified), or;

together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C (1)a., are satisfied.

Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **SECTION E. FLOODWAYS**

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

Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the county during the occurrence of the base flood discharge.

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

Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a county may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

#### **SECTION F. COASTAL HIGH HAZARD AREAS**

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as Coastal High Hazard Areas (Zones V1-30, VE, and/or V). These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, *in addition to meeting all provisions outlined in this Order*, the following provisions must also apply:

1. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures, and whether or not such structures contain a basement. The Floodplain Administrator shall maintain a record of all such information.
2. All new construction shall be located landward of the reach of mean high tide.
3. All new construction and substantial improvements shall be elevated on pilings and columns so that:
  - (i) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
  - (ii) the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.
  - (iii) A registered professional engineer or architect shall develop or review the

structural design, specifications and plans for the construction, shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting additional provisions of (3)(i) and (ii) of this Section and provide Floodplain Office Certification prior to development.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

Prohibit the use of fill for structural support of buildings.

Prohibit man-made alteration of sand dunes and mangrove stands which increase potential flood damage.

### **Manufactured Homes – Mobile Homes-Trailers**

Prohibit the placement of manufactured homes, mobile homes or trailers in any V Zone.

## **Recreational vehicles -**

Placed on sites within Zones V1-30, V, and VE on the county's FIRM either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the requirements in Article 3, Section C of this Order and paragraphs (1) through (6) below. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

**Recreational Vehicle Parks-** must comply the requirements discussed below.

- (1) a written emergency evacuation plan that includes maps and alternate vehicular access and egress routes. The plan must be approved by Calhoun County Floodplain Administrator and must be posted at various locations throughout the RV Park and shall be distributed to the RV operator/owner upon entering the Park.
- (2) An emergency warning system with required maintenance and periodic testing. Examples of emergency warning systems include, but are not limited to: a public address system, siren, or on-site resident.
- (3) RV's shall be required to remain moveable. No RV shall be allowed to remain in the Park when placed on permanent blocks, when tires are removed, or when tires are flat (not including times when tires are being repaired).
- (4) Egress of RV's should not be prevented by stored or fixed items, including, but not limited to: stairs or porches.
- (5) Each RV should be capable of evacuation at all times. For those RV's that are self-powered, they should be kept in running condition. For those RV's that are dependent on external power, a two-axle vehicle that is kept in running condition must accompany them.
- (6) All permanent structures at the Park, including, but not limited to: restrooms, office facilities, and laundry facilities must meet the local requirements of the Calhoun County Floodplain Order. These local requirements include, but are not limited to, the elevation, sewerage, and utilities requirements.
- (7) Roads and streets in the RV Park shall be at least 20 feet wide and shall be constructed of suitable materials to ensure the roads remain passable in all weather conditions.

It is hereby declared to the intention of the Calhoun County Commissioners' Court that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph or section of this Order shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Order, since the same would have been enacted by the Calhoun County Commissioners' Court, without the incorporation in this Order of any such unconstitutional phrase, clause sentences, paragraph or section..