


# Floodplain Damage Prevention Ordinances & Court Orders

Jessica Fleming  
Paul Gutierrez

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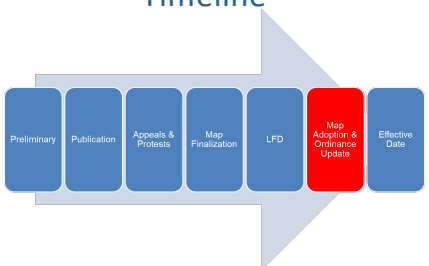
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## Timeline



- Update Ordinance/Court Order before the Effective Date (6 months after LFD date)
- Must reference new FIS and FIRM
- Send updated ordinance/court order to TWDB or FEMA before official adoption

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## Things to Keep in Mind

- If a community does not adopt before the Effective Date, your community is at risk of being suspended from the NFIP.
  - Residents will not be able to obtain federally backed loans and flood insurance for residential or commercial development.
- If updates result in more detailed mapping information, then regulations will need to change.

Model Type	Special Flood Hazard Areas	BFEs	Floodways
<b>A</b>	No	No	No
<b>B</b>	Yes	No	No
<b>C</b>	Yes	Yes	No
<b>D</b>	Yes	Yes	Yes
<b>E</b>	Yes	No/Yes	No/Yes

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Article I

**Statutory Authorization**

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the {governing body} of {community name}, Texas does ordain as follows:

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Article I

**Purpose of the Ordinance**

- **A-Findings of Fact**
  - States the reason a community has created a flood damage prevention ordinance.
- **B-Statement of Purpose**
  - (1) Protect human life and health.
  - (2) Minimize public spending for costly flood control projects.
  - (3) Minimize the need for rescue and relief efforts.
  - (4) Minimize prolonged business interruptions.
  - (5) Minimize damage to public facilities and utilities.
  - (6) Maintain a stable tax base by promoting sound land use of flood-prone areas.
  - (7) Insure that potential buyers are notified that property is in a flood area.

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Article I

**Implementation Strategy**

- **C-Methods of Reducing Flood Losses**
  - Restrict or prohibit uses that are dangerous to health, safety or property during flood events.
  - Require that uses vulnerable to floods be constructed to resist flood damage.
  - Control the changes to natural floodplains, stream channels, and natural protective barriers that accommodate floodwaters.
  - Control filling, grading, dredging and other development which may increase flood damage.
  - Prevent or regulate construction of flood barriers which will unnaturally divert flood waters or increase flood hazards to other lands.

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**Article II**  
**Define Applicable Terms**

- Base Flood
- Base Flood Elevation
- Development
- Existing Manufactured Home Park or Subdivision
- Expansion to Existing Manufactured Home Park or Subdivision
- Flood Insurance Rate Map
- Flood Insurance Study
- Floodproofing
- Floodway
- Highest Adjacent Grade
- Historic Structures
- Lowest Floor
- Manufactured Home
- Manufactured Home Park or Subdivision
- New Construction
- New Manufactured Home Park or Subdivision
- Recreational Vehicle
- Special Flood Hazard Area
- Start of Construction
- Structure
- Substantial Damage
- Substantial Improvement
- Violation

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**Article III**  
**General Provisions**

- **A-Land to Which this Ordinance Applies**
  - Community Jurisdiction
- **B-Basis for Establishing the SFHA**
  - Refers to applicable FIS and FIRM
- **C-Establishment of Development Permit**
  - Separate Floodplain Development Permit
- **D-Compliance**
  - “No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.”

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**Article III**  
**General Provisions**

- **E-Abrogation and Greater Restrictions**
  - Ordinance vs other restriction = more stringent requirement applies
- **F-Interpretation**
  - (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.
- **G-Warning and Disclaimer of Liability**
  - “This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.”

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Article IV  
Administration

- **A-Designation of the Floodplain Administrator**
- **B-Duties and Responsibilities of the FPA**
  - Include at least all ten
- **C-Permit Procedures**
  - All sections (a-i)
- **D-Variance Procedures**



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Article IV  
Administration

- **A-Designation of the Floodplain Administrator**
  - The {title of the appointed FPA} is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR pertaining to floodplain management.
- **B-Duties & Responsibilities of the Floodplain Administrator**
  - Review, regulate, and provide data for permits.
  - Inspect development.
  - **Notify appropriate parties prior to any relocation of a watercourse**
    - Adjacent communities,
    - State Coordinating Agency (Texas Water Development Board), and
    - Texas Commission on Environmental Quality (TCEQ).



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Article IV  
Administration

- **C-Permit Procedures**
  - All sections (a-i) are done: application for Floodplain Development, elevate, floodproof, descriptions for drainage and permitting such that its intended to be as safe from flooding as possible.
- **D-Variance Procedures**
  - An Appeals Board to review proposed variances and make a judgement
  - FPA keeps all records
  - National Register of Historic Places or the State Inventory of Historic Places
  - Variance denials can be appealed



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Article V  
Provisions for Flood Hazard Reduction

- **A-General Standards**
- **B-Specific Standards**
- **C-Standards for Subdivision Proposals**
- **D-Standards for Areas of Shallow Flooding (AO/AH zones)**
- **E-Floodways**
- **F-Severability**
- **G-Penalties for Noncompliance**



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Article V  
Administration

- **A-General Standards**
  - In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:
    - all development including substantial improvements will not fail or move
    - the use of flood resistant materials and placement of onsite utilities/ventilation is strategically designed against flooding



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Article V  
Administration

- **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:
- **C-Standards for Subdivision Proposals**
  - Article 1, Section B, C and D of ordinance/court order
  - Article 3, Section C; Article 4, Section 4 and provisions of Article 5 of the ordinance
  - Base Flood Elevations in relation to the size of the subdivision
  - Adequate drainage is provided and public utilities/facilities are located and constructed to minimize flood damage.



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## Higher Standards

• **Reasons to Implement**

- Lower risk to human life and health
- Lower risk of flood damage to structures
- Lower insurance rates

• **Examples**

- Freeboard- a factor of safety usually expressed in feet above a flood level
- Setbacks- establish minimum distances that structures must be positioned (or set back) from river channels and coastal shorelines; can be defined by vertical heights or horizontal distances.

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## Article V Administration

• **D-Standards for Areas of Shallow Flooding (AO/AH zones)**

- Areas of 1-3 feet of shallow flood depth where the channel is not clearly defined and the path is unpredictable (AKA: sheet flow or ponding).
- These standards apply to ANY/ALL types of development.

• **E-Floodways**

- Encroachment
  - a hydrologic and hydraulic study is required for floodway development to verify no rise of discharge.
- Must meet the provisions of 44 CFR Chapter 1, Section 65.12

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## Article V Administration

• **F-Severability**

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

• **G-Penalties for Noncompliance**

- Fines/consequences for non-compliant development.

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Article V  
Regulations D-E

- **F-Coastal High Hazard Areas**
  - 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 Ordinance, the following provisions must also apply:
    - Elevation(bottom of the lowest structural member of the lowest floor for all development),
    - landward,
    - pilings/columns,
    - breakaway walls,
    - NO alteration of sand dunes/mangrove stands,
    - NO fill as support,
    - specifics for manufactured homes/recreational vehicles

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**Contact Us!**

  
**Jessica Fleming**  
[Jessica.Fleming@twdb.texas.gov](mailto:Jessica.Fleming@twdb.texas.gov)  
512-475-1746

  
**Paul Gutierrez**  
[Paul.Gutierrez@twdb.texas.gov](mailto:Paul.Gutierrez@twdb.texas.gov)  
512-463-7771

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