60.3(a) Revised as of October 1, 1989

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Texas has in Chapter 16, Texas Water Code delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Milam County Commissiones Court
of Milam County, Texas, does ordain as

follows:

SECTION B. FINDINGS OF FACT

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

SECTION C. STATEMENT OF PURPOSE

It is the purpose of this ordinance 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 ordinance uses the following methods:

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

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

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

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

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

ARTICLE 2

DEFINITIONS

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

ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

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, AE, AH, AO, A1-99, 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.

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

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.

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 regulations.

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

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

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

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

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

FLOOD HAZARD BOUNDARY MAP (FHBM) - means an official map of a community, issued by the 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 an official map of a community, on which the Federal Emergency Management Agency 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 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 ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) 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.

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.

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.

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.

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

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

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

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

MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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.

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or

subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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.

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 reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This 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."

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

VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. 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 3

GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Milam County.

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

Since areas of special flood hazard have not been identified, water surface elevations have not been provided, nor has sufficient data identifying the floodway or coastal high hazard area been provided by the Federal Emergency Management Agency (FEMA), the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources. In the absence of data referenced above, all development located within a distance of three times the bank-to-bank width of the stream from the nearest bank of the stream, shall be elevated three feet above natural ground.

SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT

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

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 ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

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

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance, 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 ordinance 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 ordinance 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 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 thereunder.

ARTICLE 4

ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

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

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

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

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

(2) Review permit application to determine whether proposed construction or other development, including the placement of manufactured homes, will be reasonably safe from flooding.

(3) Review, approve or deny all applications for development permits required by adoption of this ordinance.

(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.

SECTION C. PERMIT PROCEDURES

(1) Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her 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:

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

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

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

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

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

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

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

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

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

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

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

f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

g. The expected heights, velocity, duration, rate of rise and sediment transport of the 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;

j. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. VARIANCE PROCEDURES

(1) The appeal Board as established by the community shall hear and render judgement on requests for variances from the requirements of this ordinance.

(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 ordinance.

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

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

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

(6) 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 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.

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

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

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

(10) Prerequisites for granting variances:

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

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

c. 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.

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

ARTICLE 5

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.

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

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

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

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

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

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

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

SECTION B. STANDARDS FOR SUBDIVISION PROPOSALS

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

(2) 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 ordinance.

(3) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

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

CERTIFICATION

It is hereby found and declared by Milam County Commissiones 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 ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, 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: Frank Summer
County Judge

PASSED: January 24, 2000
(date)

I, the undersigned, LA VERNE SOEFJE, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the Milam County Commissiones Court, at a regular meeting duly convened on January 24, 2000.

LaVerne Soefje
County Clerk, Milam County, Texas

(SEAL)

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I

SECTION A. STATUTORY AUTHORIZATION
SECTION B. FINDINGS OF FACT
SECTION C. PURPOSE
SECTION D. METHODS OF REDUCING FLOOD LOSSES

ARTICLE 2 DEFINITIONS

ARTICLE 3 GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES
SECTION B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD (NO MAP)
SECTION C. ESTABLISHMENT OF DEVELOPMENT PERMIT
SECTION D. COMPLIANCE
SECTION E. ABROGATION AND GREATER RESTRICTIONS
SECTION F INTERPRETATION.
SECTION G. WARNING AND DISCLAIMER OR LIABILITY

ARTICLE 4 ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR
SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR
SECTION C. PERMIT PROCEDURES
SECTION D. VARIANCE PROCEDURES

ARTICLE 5 PROVISION FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS
SECTION B. SPECIFIC STANDARDS

ARTICLE 6 PENALTY, REPEALER AND SEVERABILITY (RECOMMENDED)

SECTION A. PENALTY
SECTION B. REPEALER
SECTION C. SEVERABILITY

CERTIFICATION

Motion by Commissioner Mode, seconded by Commissioner Hauk to approve the Floodplain Management Court Order as presented. This motion having been put to vote prevailed, the vote being unanimous.

FLOODPLAIN MGMT
COURT ORDER

60.3(a) FLOODPLAIN MANAGEMENT COURT ORDER

STATE OF TEXAS

COUNTY OF MILAM

WHEREAS, the County of Milam wishes to establish eligibility to the National Flood Insurance Program and in order to do so must meet the minimum requirements of Section 60.3(a) of the Program Regulations as published by the Federal Emergency Management Agency; and

WHEREAS, under Subchapter I, Section 16.315 of the Texas Water Code, all political subdivisions are authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program;

NOW, THEREFORE, the following measures shall be enacted within the unincorporated areas of Milam County:

SECTION 1 - DESIGNATION OF COUNTY FLOODPLAIN ADMINISTRATOR

For purposes of this Court Order, the County Judge and/or his designated assistant shall act as the County Floodplain Administrator with assistance from the County Commissioner and any other County departments or committees as may be deemed necessary.

SECTION 2 - BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD (NO MAP)

Since areas of special flood hazard have not been identified, water surface elevations have not been provided, nor has sufficient data identifying the floodway or coastal high hazard area been provided by the Federal Emergency Management Agency (FEMA), the community shall obtain, review, and reasonably utilize data available from other Federal, State or other sources. In the absence of data referenced above, all development located within a distance of three times the bank-to-bank width of the stream from the nearest bank of the stream, shall be elevated three feet above natural ground.

SECTION 3 - LANDS TO WHICH THIS COURT ORDER APPLIES

This Court Order applies to all land areas subject to flooding as identified on maps referenced in SECTION 2. Maps may be viewed in the Office of the County Judge, County Precinct offices, and other County departments. Banks and other lending agencies, insurance agencies, and building material supply houses located in the County will have maps for public viewing.

SECTION 4 - PERMIT APPLICATIONS REQUIREMENTS

No person shall erect, construct, enlarge, alter, repair, improve, move or demolish any building or structure located in the identified floodplain without first submitting a permit application is submitted and authorization is obtained to proceed.

No man-made change to improve or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving excavation or drilling operations shall be commenced within the identified floodplain until a permit application is submitted and authorization is obtained to proceed.

No mobile home shall be placed on improve or unimproved real estate within the identified floodplain without first submitting a permit application and obtaining

authorization to proceed.

SECTION 5 - PERMIT APPLICATION REVIEW

The County Administrator shall review all permit applications and subdivision proposals to determine whether proposed building sites will be reasonably safe from flooding.

The County Administrator shall review all permit applications to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act amendments of 1972.

The County Administrator shall notify adjacent communities and the Texas Natural Resource Conservation Commission prior to any alteration or relocation of Watercourse, and submit copies of such notification to the Federal Emergency Management Agency.

The County Administrator shall assure that the flood carrying capacity within the altered or relocated portion of any Watercourse is maintained.

SECTION - 6 ISSUANCE OF PERMITS

After reviewing the application, the County Administrator shall require any additional measures which are necessary to meet the minimum requirements of this Court Order. If a proposed activity is not within the identified floodplain, then no permit is required and authorization can be given to proceed.

For permit requirements, the County Administrator shall obtain and reasonably utilize any base flood elevation data available from a Federal, State or other source until such data has been provided by the Federal Emergency Management Agency.

SECTION 7 - PERMIT REQUIREMENTS

1. GENERAL STANDARDS

In all areas of special flood hazard, the following provisions are required:

a. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement;
b. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
c. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage:
d. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
e. New and replacement sanitary sewage system shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters;
f. On-site waste disposal systems (septic tanks) shall be located to avoid impairment to them or contamination from them during flooding.

2. SPECIFIC STANDARDS

In all areas, base flood elevation shall be obtained and the following additional provisions shall be required:

a. All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above base flood elevation;

b. All new construction and substantial improvements of non-residential structures shall have the lowest floor, including basement, elevated or floodproofed up to or above the base flood level.

SECTION 8 - MOBILE HOME REQUIREMENTS

In all areas of special flood hazard, the following provisions are required:

a. All mobile homes shall be anchored to prevent floatation, collapse, and lateral movement by providing over-the-top ties and frame ties to ground anchors or other anchoring techniques in accordance with FEMA's manual on "Manufactured Home Installation in Flood Hazard Areas"'
b. Over-the-top ties be provided at each of the four corners of the mobile home with two additional ties per side at intermediate locations and mobile homes less than 25 feet long requiring one additional tie;
c. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional per side;
d. All components of the anchoring system be capable of carrying a force of 4,800 pounds;
e. Any additions to the mobile home be similarly anchored;
f. To meet the requirement of elevating mobile homes so that the lowest floor is at or above base flood elevation, mobile homes must be elevated on fill or a specified piling system.

SECTION 9 - STANDARDS FOR SUBDIVISION PROPOSALS

If a subdivision proposal is in the identified floodplain, the following provisions are required:

a. All such proposals are consistent with the need to minimize flood damage within the flood prone area;
b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
c. Adequate drainage shall be provided to reduce exposure to floods;
d. All subdivisions and other proposed new developments greater than 50 lots or 5 acres, which ever is the lesser, shall include base flood elevation data within such proposals. Plats will have the 100-year floodplain clearly delineated, and minimum slab elevations will be given for each lot within the floodplain.

SECTION 10 - PERMIT COMPLIANCE CERTIFICATION

When a permit is issued for developments within the identified floodplain, the following certifications of compliance may be

required:

a. A certification from a registered professional engineer, architect, or land surveyor, of the elevation of the finished first floor, including basement, in relation to feet mean sea level.

b. If a structure has been floodproofed, a registered professional engineer must certify the elevation to which the structure was floodproofed and that the floodproofing measures utilized are adequate to provide the required protection.

c. A certificate of permit compliance from the permit grantee stating that all of the permit requirements have been met.

SECTION 11 - FORMS AND FEES

The County Commissioners and the County Administrator will promulgate forms and establish fees as may be required for the proper administration of this Court Order.

SECTION 12 - ENFORCEMENT : PENALTIES

Any violation of this Court Order is a class C misdemeanor. Each day a violation occurs is separate offense. The Commissioner's Court may file suite for injunctive relief or civil penalties or both for any violation or threatened violation of this Court Order.

SECTION 13 - DEFINITIONS

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

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year.

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

Flood - 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 of runoff of surface water from any source.

Floodplain or Flood Prone Area - means any land area susceptible to being inundated by water from any source.

Floodproofing - means any combination of structural and nonstructural 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.

Habitable Floor - means any floor unstable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage is not a "habitable floor".

Mobile Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

Persons - includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

Riverine - means relating to, formed by, or resembling a river, stream or brook.

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

Substantial Improvement - means any repair, reconstruction, or improvement of the structure, the cost of which equals or exceeds 50% of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. The term does not include either (1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 14 - VARIANCE PROCEDURES

1. The Commissioner's Court Appeal Board, as established by Milam County hear and render judgement on requests for variances from the requirement this ordinance.
2. The Appeal Board shall hear and render judgement on an appeal only when is alleged there is an error in any requirement, decision, or determination made by the County Administrator in the enforcement or administration of this ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The County Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Insurance Administration upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
6. Generally, 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 7 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Court Order.
8. Variances shall not be issued within any designated floodway if any increases in flood levels during the base flood discharge would result.
9. Prerequisites for granting variances:
   a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
   b. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) and 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 ordinances.
   c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation no more than three feet 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.

ADOPTED THIS 24th day of January, 2000, AS AN ADDENDUM TO THE MILAM COUNTY FLOODPLAIN MANAGEMENT COURT ORDER ADOPTED August 23, 1999.

Frank Summers — County Judge

1 V W Haup — Commissioner, Precinct No.

2 Troy Mode — Commissioner, Precinct No.

3 Dale Jacobs — Commissioner, Precinct No.

4 Burke Bauerschlag — Commissioner, Precinct No.

CERTIFICATION

STATE OF TEXAS

COUNTY OF MILAM

I, LaVerne Soefje, County Clerk and Ex Official Clerk of the Commissioner's Court, do hereby certify that the above and foregoing is a true and correct copy of a Resolution made and entered by the Commissioner's Court in regular session, on this the 24th day of Janaury, 2000, as it appears on record in the Minutes of said Court, Volume 38, Page 909.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 24th DAY OF January, 2000.

LaVerne Soefje

_, COUNTY CLERK

Milam

_ COUNTY, TEXAS

SEAL