



WHEREAS, the Community & Development Services Office has made the following findings related to the adoption of revised floodplain regulations necessary for continued participation in the National Flood Insurance Program:

- Appropriate Public Notice was given
- Adoption of any regulation must be in the form of a Resolution; and

WHEREAS, the Board of County Commissioners, having found that this hearing was properly noticed, and having reviewed the recommendations of the Community & Development Services Office and reviewed the documentation, and listened to the presentation by Staff, and having listened to all public comment, and being fully advised in the premise: and

WHEREAS, this body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to C.R.S. 29-20-101 *et seq.* and C.R.S. 30-28-101 *et seq.*

BE IT THEREFORE RESOLVED, the Board of County Commissioners do hereby Replace Resolution 11-08 with the following:

ARTICLE I

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATIONS

The Legislature of the State of Colorado has, in C.R.S. § 29-20-101 *et seq.* and C.R.S. § 30-28-101 *et seq.* of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Elbert County Commissioners of Elbert County, Colorado, do hereby adopt the following floodplain management regulations:

SECTION B. FINDINGS OF FACT

1. The flood hazard areas of Elbert County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood 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

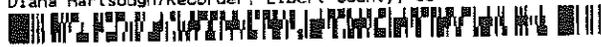
It is the purpose of these regulations to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. protect human life and health;
2. ensure that landowners of areas of special flood hazards assume responsibility for their actions;
3. minimize expenditure of public money for costly flood control projects;
4. minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
5. minimize prolonged business interruptions;
6. minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
7. help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas;
8. insure that potential buyers are notified that property is in a flood area; and
9. comply with the program requirements of the Federal Emergency Management Agency (FEMA) in order that national flood insurance to County residents remains available.

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, these regulations use the following methods:

1. restrict or prohibit uses that may be 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. require water supply and sanitation systems to be protected against flood damage at the time of initial construction so as to prevent disease, contamination and unsanitary conditions;
4. control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accomodation of flood waters;
5. control filling, grading, dredging and other development which may increase flood damage;



6. prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
7. delineate areas that could be inundated by flooding thereby protecting individuals from purchasing floodplain land for purposes which are not suitable.



ARTICLE II DEFINITIONS

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

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

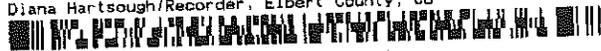
ALLUVIAL FAN FLOODING – means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

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.

APPEAL- A request for a review of the Floodplain Administrator's interpretation of any provisions of this section or a request for a variance.

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 Elbert County subject to a one percent (1%) or greater chance of flooding in any given year.



BASE FLOOD – means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, 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 sub-grade (below ground level) on all sides.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY – A structure or related infrastructure, but not the land on which it is situated, as specified in Article V, Section F, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

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.



DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

ELEVATED BUILDING – means a non-basement 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 flow 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 meet 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 FIRM’s 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).

FEDERAL REGISTER - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.



FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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 of runoff of surface waters from any source.

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 – FLOOD INSURANCE STUDY (FIS) - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOOD PROFILE- A graph or plot of the water surface elevation against distance along a channel, specifically for a level of flooding.

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 PROTECTION ELEVATION- An elevation 1 foot above the elevation or “flood profile” of the 100-year flood under existing channel and floodplain conditions. It is 1 foot above the elevation of the flood within the flood boundary area.

FLOOD STAGE- The height or elevation of a flood as referred to some datum. It is commonly used to refer to the elevation at which a stream will overtop its normal banks.



FLOOD STORAGE AREA- That portion of the regulatory area that may serve as a temporary storage area for flood waters from the 100-year flood and lies landward of the floodway.

FLOODPLAIN ADMINISTRATOR- The Elbert County designated representative.

FLOODPLAIN DEVELOPMENT PERMIT – A permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and these floodplain management regulations.

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 and floodplain management regulations.

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

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

FLOODPLAIN STORAGE CAPACITY- The volume of space in an area of floodplain land that can be occupied by floodwater of a given stage at a given time, regardless of whether the water is moving.

FLOODWAY (REGULATORY FLOODWAY) - The channel of a river or other watercourse and 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 - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

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:

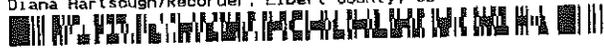
1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior or;
 - b. directly by the Secretary of the Interior in states without approved programs.

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 a closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) – FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.



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 dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site bearing a label that it is built in compliance with the "National Manufactured Housing Construction and Safety Standards Act of 1974" (42 U.S.C. 5401 et seq. as amended). 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 or mobile home lots for rent or sale.

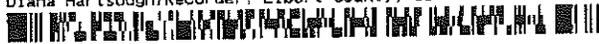
MEAN SEA LEVEL – means, for the purpose of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced

MATERIAL SAFETY DATA SHEET (MSDS) – A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

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.



NO-RISE CERTIFICATION – A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE – means a vehicle which is :

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

START OF CONSTRUCTION – includes substantial improvements 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, 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 basements, footings 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 fifty percent (50%) of the market value of the structure before the “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”.

THRESHOLD PLANNING QUANTITY (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE – is a grant of relief to a person from the requirement of these regulations when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by these regulations. (For full compliance 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) of the National Flood Insurance Program regulations, 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 (NAVD) 88 (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 THESE REGULATIONS APPLY

These regulations shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of Elbert County, Colorado.

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 Elbert County," dated March 17, 2011, 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 these regulations. These Special Flood Hazard Areas identified by the Flood Insurance Study (FIS) and attendant mapping are the minimum area of applicability of these regulations and may be supplemented by studies designated and approved by the Elbert County Board of Commissioners. The Floodplain Administrator shall keep a copy of the FIS, DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

1. Boundary

The floodplain is composed of the 100-year Floodplain and a subarea within the floodplain called the floodway which must be reserved in order to discharge the 100-year flood without increasing the water surface elevation more than one half foot at any point.

The boundary of the floodplain shall be the boundary of the 100-year floodplain. The extent of this area shall be based upon the best available information including:

- a. The Flood Insurance Study for Elbert County dated March 17, 2011, and the accompanying series of Flood Insurance Rate Maps (FIRM) and amendments thereto, produced by FEMA
- b. Other 100-year floodplain studies as approved by the County Engineer and accepted by the appropriate local, regional, state, or federal agencies

When base flood elevation data and floodway data have not been provided in accordance with the FEMA Flood Insurance Study, the Floodplain Administrator shall require applicants to use other base flood elevation and floodway information, if it exists. If this information does not exist, the applicant shall generate these studies.



Base flood and floodway elevations must be determined prior to the permitting of new construction, substantial improvements, or other development in the 100-year floodplain (*Zone A on FEMA maps*) or adjacent to major drainage ways, not yet identified as Zone A on the FEMA maps.

Floodplain maps will be kept on file in Community and Development Services offices and these sources are adopted by reference and hereby incorporated into these regulations. The boundary lines on the map shall be determined by the scale appearing on the map.

The Floodplain Administrator shall make the necessary interpretation of the location of the boundary of the floodplain. The decision of the Floodplain Administrator may be appealed to the Board of County Commissioners.

If an individual wishes to appeal the flood elevation on the FEMA Flood Insurance Study for Elbert County, a Map Amendment or revision process is available through the Code of Federal Regulations (CFR). Contact the regional FEMA Office for this information.

SECTION C USES AND DEVELOPMENT STANDARDS WITHIN THE FLOODPLAIN BOUNDARY

1. Uses Prohibited

The following are strictly prohibited within the floodplain:

- a. Habitable structures, or commercial/industrial structures, *except* fish hatcheries, water-related recreational facilities, single-family dwellings and reconstruction of nonconforming structures in compliance with FEMA floodplain requirements and as allowed by an Elbert County Floodplain Development Permit
- b. Storage or processing of materials that are buoyant, flammable, explosive, or could be dangerous or cause injury in the time of flooding
- c. Junk or salvage yards, or solid waste disposal facilities or landfills
- d. Oil and gas wells and extraction equipment

2. Uses Permitted by Right

The following uses shall be allowed by right provided they are permitted in the underlying zoning district, and to the extent that they do not impair the flood-carrying capacity of the channel in compliance with the intent of this Section:

- a. Agricultural uses such as general farming, pasture, truck farming, sod farming, grazing and crop harvesting
- b. Open Space



- c. Recreational uses not requiring structures or fences, including parks, golf courses, driving ranges, picnic grounds, wildlife and natural reserves, game farms, target ranges, trap and skeet ranges, hunting, fishing, and hiking areas
- d. Lawns, gardens, parking areas and other similar uses accessory to the residential use of the land

The Floodplain Administrator may determine which other uses may be allowed provided that they are very similar in nature to those permitted, and that they comply with the provisions of this Section.

3. Uses Permitted by Floodplain Development Permit - Within the Floodway

The following listed uses may be permitted, within the floodway, by the approval of a Floodplain Development permit; however, some of these uses also require a Use By Special Review Permit pursuant to Section 18 of the Elbert County Zoning Regulations.

- a. Underground pipelines, water monitoring devices, and utility and flood control facilities, including flow management areas, transmission lines, excluding aboveground support facilities.
- b. Streets or bridges.
- c. Accessory structures provided that flood hazards are mitigated.
- d. Certification by a registered Colorado professional engineer shall be provided to the Floodplain Administrator stating that the use will not cause any increase in the base flood elevation. (No-Rise Certificate)

The Floodplain Administrator may determine which other uses may be allowed provided that they are very similar in nature to those permitted, and that they comply with the provisions of this Section.

4. Uses Permitted by Floodplain Development Permit - Within the 100-year Floodplain Boundary

The following listed uses may be permitted, within the 100-year floodplain boundary, by the approval of a Floodplain Development Permit; however, many of these uses also require a Use by Special Review Permit pursuant to Section 18 of the Elbert County Zoning Regulations.

- a. Utility and flood control facilities, including dams, flowage management areas, transmission lines, pipelines and water monitoring devices.
- b. Streets or bridges.
- c. Loading areas, parking areas, airport landing strips and storage yards for equipment or machinery easily moved or not subject to flood damage when firmly anchored to prevent flotation.
- d. Fish hatcheries, and water-related recreational facilities, including marinas, boat rentals, docks, piers, wharves.



- e. Extraction of topsoil, sand, gravel or other materials.
- f. Public water and sewage treatment facilities and multiple-use water treatment facilities - New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters.
- g. Public or private water storage facilities, including ponds and reservoirs - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- h. Channelization, bank stabilization or any activity which alters or relocates the configuration of the 100-year floodplain boundary. Any channelization, alteration, or relocation of a watercourse shall be in accordance with the provisions contained within the Elbert County Construction Standards and Specifications Manual. The above changes shall not cause an increase of more than one half foot in the base flood elevation with the exception of retention and/or detention facilities as approved by the Floodplain Administrator.
- i. Accessory structures - Refer to the flood-hazard mitigation measures listed herein which may be required.
- j. Single-family dwellings and customary accessory buildings in compliance with FEMA floodplain development requirements and as allowed by an Elbert County Floodplain Development Permit.
- k. Reconstruction of a nonconforming structure or portion thereof which has been damaged or destroyed by any means or declared unsafe by the County Building Official, the cost of which equals or exceeds 50 percent of the market value of the structure before the damage occurred.

The Floodplain Administrator may determine which other uses may be allowed provided that they are very similar in nature to those permitted, and that they comply with the provisions of this Section.

5. General Floodplain Development Standards

When development is proposed adjacent to floodplains, or contains floodplain, or to the extent that physical improvements occur and these improvements raise the land above the base flood elevation, applicants shall be required to:

- a. locate all new construction or substantial improvements of any residential structure so that the lowest floor, including basement, is elevated a minimum of one foot above the base flood elevation. A Colorado 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 IV, Section C., is satisfied.



- b. locate all new and substantially changed non-residential structures, and additions to existing non-residential structures so that the lowest floor, including basements, is placed a minimum of one foot above base flood elevation, or be flood-proofed to an elevation a minimum of one foot above base flood elevation. The structure must be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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 flood proofed shall be maintained by the Floodplain Administrator.
- c. locate all new on-site sewage systems (*including leach fields*) in areas above the base flood elevation; (*except the replacement of a failing system where no alternate location outside the 100-year floodplain is available.*)
- d. locate all new and replacement construction of public utilities and facilities that are located within the 100 year floodplain, such as sewer, gas, electrical, or water systems to minimize flood damage
- e. locate all new and replacement construction of designated critical facilities located within the 100 year floodplain a minimum of two feet above the base flood elevation and when practicable, have continuous non-inundated access during a 100 year flood event
- f. provide base flood elevation data for subdivisions proposed in area shown to having 100-year floodplains as determined by methods referenced in Article III, Section B, 1, and where no base flood elevation data exists
- g. notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse which is part of a 100-year floodplain and submit evidence of such notification to FEMA
- h. maintain altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished, unless this maintenance responsibility has been accepted by a public entity
- i. construct all new construction and substantial improvements:
 - i with materials and utility equipment resistant to flood damage;
 - ii using methods and practices that minimize flood damage; and
 - iii 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.
- j. anchor all new construction and substantial improvements to prevent floatation, collapse, or lateral movement of the structure so that it is capable of resisting the hydrostatic and hydrodynamic loads;



- k. design fully enclosed areas below the lowest floor, that are subject to flooding, to automatically equalize hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters in the case of all new construction and substantial improvements. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following criteria:
 - i a minimum of 2 openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided;
 - ii the bottom of all openings shall be no higher than 1 foot above grade; and
 - iii openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

- l. Ensure that recreational vehicles be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use. 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 not permanently attached additions.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with this section (Section 25) of the Elbert County Zoning regulations and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another regulation, resolution, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of these regulations, 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 these regulations 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. These regulations do 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. These regulations shall not create liability on the part of Elbert County or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.



**ARTICLE IV
ADMINISTRATION**

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Director of the Elbert County Community & Development Services Office is hereby appointed the Floodplain Administrator to administer and implement the provisions of these regulations 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 these regulations;
2. Review permit application to determine whether proposed building site, 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 these regulations;
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 Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
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 III, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Articles III, IV and V;
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 communities 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 half foot at any point within the community; and
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community 's FIRM which increases the water surface elevation of the base flood by more than one half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

SECTION C. FLOODPLAIN DEVELOPMENT PERMIT AND PROCEDURES

1. Floodplain Development Permit

A floodplain development permit is required prior to the issuance of a building permit, any development, use or a change of use located in the floodplain which is subject to the provisions of this Section. The floodplain development permit is required in addition to other permits or review processes which may be associated with the underlying zone district. All applicable Federal and State permits shall be obtained prior to the issuance of a floodplain development permit.

2. Floodplain Development Permit – General Submittal Process

- a. Applicants shall meet with Community and Development Services staff to review the proposed use and determine whether a Floodplain Development Permit is required.
- b. When a permit is required, the applicant shall submit all required information to the Community and Developments Services office.



- c. When the application is determined complete, the Applicant shall provide one copy of the submittal to any referral agency from which expert technical assistance may be required as determined by Community and Development Services staff. The applicant shall be responsible for fees established by these referral agencies. If an outside consultant is needed to review the application, the applicant shall be responsible for all outside consultant costs related to the application.
- d. Referral agencies shall assist in determining whether the proposed use is located in the floodway or floodplain, in determining the flood protection elevation and in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection and other effective regulations.
- e. The Floodplain Administrator shall evaluate the application and submittal information and approve the permit, approve the permit with conditions or deny the permit.
- f. If denied, the decision of the Floodplain Administrator may be appealed in writing to the Board of County Commissioners within 10 working days of the date of the decision in accordance with Article IV, Section C.
- g. A copy of the Floodplain Development Permit will be distributed to Community and Development Services and to the Building Department. Elevations provided by the applicant's engineer, for all structures, will be certified and recorded, and filed in the Community Development Services office and made available to the public.

3. Floodplain Development Permit – Submittal Requirements

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 to which any nonresidential structure shall be floodproofed.
- b. A certificate from a Colorado registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article III, Section C, 5, b;
- c. Maintain a record of all such information in accordance with Article IV, Section (B)(1)
- d. Three copies of the plan prepared by a Colorado registered professional engineer, drawn to scale showing:
 - i The nature, location, dimensions and elevation of the lot
 - ii Existing or proposed structures
 - iii Fill
 - iv Storage of materials
 - v Flood hazard mitigation measures
 - vi The relationship of the above to the location of the channel
- e. Plans shall show the elevations in relation to mean sea level of the lowest floor (including basement) of all structures.
- f. Three copies of a plan view showing:
 - i Elevations or contours of the ground
 - ii Structures - size, location, and spatial arrangement
 - iii Embankment or structural fill or storage elevations
 - iv Streets, water supply and sanitary facilities - location and elevations
 - v Soil types and other pertinent information
- g. Specifications for building construction and materials, flood hazard mitigation measures, filling, dredging, grading, channel improvements, storage of materials, water supply and sanitary facilities.
- h. Additional information as requested or contained in the Elbert County Construction Standards and Specifications manual.



- i. Three copies of a typical valley cross-section showing:
 - i The channel of the stream
 - ii Elevation of land adjoining the channel
 - iii Cross-sectional areas to be occupied by the proposed development
 - iv Base flood elevations

- j. Three copies of a stream profile showing:
 - i The bottom of the channel of flow line of the stream
 - ii The 100-year water surface profile

*Include photographs showing existing land uses and vegetation upstream and downstream.

*Plans shall include a description of the extent to which any watercourse will be altered or relocated as a result of development.

4. Floodplain Development Permit - Approval Criteria

Many factors will be used in evaluating the effects of the proposed use upon the public healthy, safety and welfare in approving the issuance of a Floodplain Development Permit.

Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of these regulations and the following relevant factors:

- a. The potential danger to life and property due to increased flood elevations or velocities caused by encroachments;
- b. The potential danger that materials may be swept on to other lands or downstream endangering others;
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the public health, safety, and welfare;
- e. The relationship of the proposed use to the Elbert County Master Plan and floodplain management program for the area;
- f. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- g. The expected elevation, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site;



- h. A determination of a site's suitability by:
 - i a calculation of water surface elevations based on a hydraulic analysis of the capacity of the stream channel and over bank areas to convey the 100-year flood;
 - ii a computation of the floodway required to convey this flood without increasing flood heights to an extent which would cause upstream or downstream damage to existing or reasonably anticipated future development; any increase in flood stages attributable to encroachments on the floodplain of any river or stream shall not exceed one half foot;
- i. An analysis of the effect of a proposed development upon the floodway, including hydrologic studies showing that the development will not cause any increase in the regulatory floodway elevation.;
- j. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- k. The compatibility of the proposed use with existing and anticipated development;
- l. 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;
- m. The necessity to the facility of a waterfront location, where applicable; and the importance of the services provided by the proposed facility to the community
- n. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

5. Conditions of Approval

Any of the following conditions of approval may be required by the Floodplain Administrator when granting a development permit:

- a. Modification of waste disposal and water supply facilities;
- b. Imposition of operational controls, including a limitation on periods of use and operation;
- c. Provision of bonds or other financial security to ensure that improvements are made according to the provisions of the permit and adequate maintenance is provided;
- d. Anchoring of all structures and facilities to resist flotation and lateral movement;
- e. Construction of water supply and waste-treatment systems in a manner which prevents the entrance of floodwaters;
- f. Elevation of structures and uses to the base flood elevation plus one foot - (this shall not be construed to allow accessory structures in floodway); and



- g. Implementation of flood hazard mitigation measures shown on a plan certified by a registered Colorado professional engineer, including:
 - i The installation of watertight doors, bulkheads and shutters
 - ii The reinforcement of walls to resist water pressures
 - iii The use of paints, membranes or mortars to reduce seepage of water through walls
 - iv The addition of mass or weight to structures to resist flotation
 - v The installation of pumps to lower water levels in structures, and to relieve hydrostatic pressure against foundation wall and basement floor pressures
 - vi Construction which resists rupture or collapse caused by water pressure or floating debris
 - vii Cutoff valves on sewer lines or the elimination of gravity flow basement drains

SECTION D. VARIANCE PROCEDURES

1. Administrative

- 1. The Elbert County Board of County Commissioners shall be designated as the Appeal Board, and shall hear and render judgement on requests for variances from the requirements of these regulations.
- 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 these regulations.
- 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 these regulations.
- 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 Article IV, Section C, "Floodplain Development Permit - Approval Criteria" 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 these regulations, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of these regulations (Article I, 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:
 - i Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - ii 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;
 - 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 regulations.
 - iii 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.
 - iv Variances may be issued by the Appeal Board for new construction and substantial improvements provided that:
 - a. The criteria outlined in Article IV, Section D are met; and
 - b. 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.



2. Approval Standards for Granting Variances

The Board's decision shall be based on all technical evaluations, relevant factors, and the approval criteria located in Section C, 4, of this Article (Floodplain Development Permit-Approval Criteria), as well as relevant standards specified in other sections of these regulations.



**ARTICLE V
SPECIAL STANDARDS**

SECTION A. STANDARDS FOR MANUFACTURED HOMES.

1. 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 which minimize flood damage. For the purposes of this requirement, manufactured homes 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.
2. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
3. 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 community's FIRM that are not subject to the provisions of paragraph A, 1 and 2 of this section be elevated so that either:
 - a. the lowest floor of the manufactured home is at one foot or above the base flood elevation, or
 - b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

SECTION B. STANDARDS FOR SUBDIVISION PROPOSALS

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



2. All proposals for the development of subdivisions including the placement of manufactured home and mobile home parks and subdivisions shall meet Development Permit requirements of Article III, Section C; Article IV, Section C; and the provisions of Article V of these regulations.
3. All subdivision proposals including the placement of manufactured home and mobile 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.

SECTION C. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the areas of special flood hazard established in Article III, Section B, may be 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:

1. 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 two feet if no depth number is specified)
2. All new construction and substantial improvements of **non-residential** structures;
 - a. 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 two feet if no depth number is specified), or;
 - b. together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
3. A Colorado registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article IV, Section C, are satisfied.



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

SECTION D. STANDARDS FOR FLOODWAYS

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

1. 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 community during the occurrence of the base flood discharge.
2. If Article V, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community 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 E. STANDARDS FOR CRITICAL FACILITIES

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

1. CLASSIFICATION OF CRITICAL FACILITIES

It is the responsibility of the Elbert County Board of Commissioners to identify and confirm that specific structures in their community meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.



- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- i Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- ii Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
- iii Designated emergency shelters;
- iv Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- v Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- vi Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Elbert County Board of Commissioners that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of these regulations, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Elbert County Board of Commissioners on an as-needed basis upon request.



- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- i Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 - ii Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 - iii Refineries;
 - iv Hazardous waste storage and disposal sites; and
 - v Above ground gasoline or propane storage or sales centers.
- c. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation these regulations, but exclude later amendments to or editions of the regulations

Specific exemptions to this category include:

- i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.



- ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the Elbert County board of Commissioners, that local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

- d. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- i. Elder care (nursing homes);
 - ii. Congregate care serving 12 or more individuals (day care and assisted living);
 - iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);
- e. Facilities vital to restoring normal services including government operations.

These facilities consist of:

- i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
- ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Elbert County Board of Commissioners that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with these regulations, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a



flood. Evidence of ongoing redundancy shall be provided to the Elbert County Board of Commissioners on an as-needed basis upon request.

2. PROTECTION FOR CRITICAL FACILITIES

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of these regulations, protection shall include one of the following:

- a. Location outside the Special Flood Hazard Area; or
- b. Elevation or floodproofing of the structure to at least two feet above the Base Flood Elevation.

3. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

New Critical Facilities shall, when practicable as determined by the Elbert County Board of Commissioners, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

SECTION F PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these regulations and other applicable regulations. Violation of the provisions of these regulations by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 100 per day for each violation, and in addition shall pay all costs and expenses associated with the violation. Nothing herein contained shall prevent Elbert County from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION G CERTIFICATION

It is hereby found and declared by the Elbert County Board of Commissioners 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 these regulations become effective immediately.



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

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the National Flood Insurance Program (NFIP) regulation, to qualify for the sale of federally-subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally-enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e. mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local regulations, resolutions or codes."

Upon a motion duly made and seconded, the foregoing resolution was adopted by the following vote:

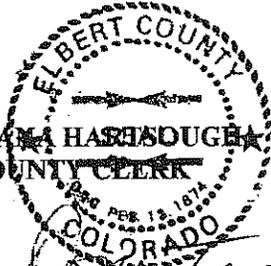
Del Schwab Aye
DEL SCHWAB, CHAIRMAN

John Shipper Aye
JOHN SHIPPER, VICE CHAIRMAN

Kurt C. Schlegel Aye
KURT SCHLEGEL, COMMISSIONER

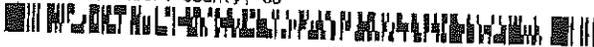
ATTEST:

DIANA HARTSOUGH
COUNTY CLERK



BY:

Doni Trenkle
Doni Trenkle, Deputy Clerk to the Board



ATTEST: DON FRENKLE
CLERK TO THE BOARD

BY: Don Frengle
Clerk to the Board

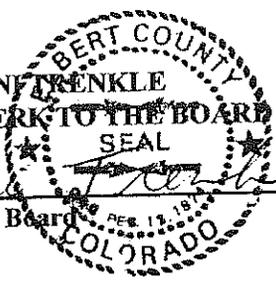




EXHIBIT A



Elbert County Floodplain Development Fees

Fence, Deck, Fill or Grading only, Misc (as determined by Floodplain Manger)	\$50.00
Both substantial and non substantial improvements of uninhabitable residential structures, i.e. Garage, Shed, Workshop, other Out Building	\$200.00
Both substantial and non substantial improvements of habitable residential structures	\$480.00
Multifamily Residential or Commercial New building and substantial improvements	\$800.00
CLOMR-F/LOMR-F	\$1,200.00
Floodplain Analysis	\$2,000
CLOMR/LOMR	\$3,000.00
LOMR only	\$2,000.00
No Impact Analysis	\$500.00

Disclaimer:

Persons applying for a Floodplain Development Permit shall pay for all planning and engineering review services and other consultant fees, including, without limitation, legal fees and other costs and expenses incurred by the County and made necessary as a result of said application. Should the cost of necessary reviews and/or consultations exceed the fees collected per the above schedule, the applicant shall pay, to the County, any additional costs and expenses related to review of the application upon request. If the applicant does not pay the costs and expenses within 10 days of written request from the County the application will be placed on hold, then, in addition to other remedies the County may have, the County shall be entitled to a lien on the property that is the subject of the application, or the County may elect to certify the assessed costs and expenses to the office of the County Treasurer for collection in the same manner as general property taxes are collected. Such lien shall be perfected and foreclosed upon in accordance with applicable state laws.

General Notes:

Uninhabited structures is defined as any structure that does not provide habitable shelter for humans or animals. i.e. shed, shop, garage, other nonhabitable out building

Substantial Improvement is defined as improvements >50% of existing building value

Non-substantial Improvement is defined as improvements <50% of existing building value

Floodplain Development fees are in addition to all other applicable development fees, such as building and grading permit fees