

ORDER NO. O-19-2017

AN ORDER OF ARANSAS COUNTY, TEXAS, AT FEMA'S REQUEST, GRANTING A VARIANCE UNTIL APRIL 30, 2019 FROM FLOOD ELEVATION REQUIREMENTS FOR MANUFACTURED HOMES IN FLOODPLAINS TO ALLOW THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO PROVIDE TEMPORARY DIRECT HOUSING ASSISTANCE IN THE FORM OF MANUFACTURED HOMES (MHU) AND READILY FABRICATED DWELLINGS (AS DEFINED IN THE COUNTY'S FLOODPLAIN MANAGEMENT AND WATERSHED PROTECTION ORDER NO. O-02-2016 ADOPTED BY THE COUNTY 1/25/2016), PRIMARILY MOBILE HOMES AND PARK MODEL MOBILE HOMES IN RESPONSE TO WIDESPREAD DAMAGE CAUSED BY HURRICANE HARVEY; MAKING VARIOUS FINDINGS AND PROVISIONS RELATED TO THE SUBJECT.

WHEREAS, on August 23, 2017 the County declared a local State of Disaster due to the catastrophic damage created by Hurricane Harvey; and,

WHEREAS, due to widespread residential property damage necessitating repairs and rehabilitation and the unavailability of housing, hotels, and rental properties, the County has an urgent need to provide temporary public housing for residents; and,

WHEREAS, on January 25, 2016 the County adopted **Order No. O-02-2016, Floodplain Management and Watershed Protection Order** and the **Flood Insurance Rate Maps** to comply with FEMA directives and the National Flood Insurance Program requirements; and,

WHEREAS, the County has informed the State of Texas of this need and requests the Federal Emergency Management Agency (FEMA) to provide direct assistance, in the form of manufactured housing and readily fabricated dwellings, to individuals and households affected by Hurricane Harvey; and,

WHEREAS, the County regulates manufactured housing placement and various County code requirements including building and development permits; and,

WHEREAS, the County is considering a temporary variance to allow FEMA to provide these dwellings to eligible applicants within areas such as the 100-year flood plain, Limit of Moderate Wave Action (LiMWA), and Special Flood Hazard Area (SFHA); and,

WHEREAS, FEMA has made assurances and promises that: 1) the County's participation in the National Flood Insurance Program will not be jeopardized by this temporary variance and no waiver is needed; 2) federal funding or reimbursement of any sort will not be affected; 3) FEMA guidelines require the Regional Administrator to determine that such sites provide the only practicable alternative for placement of temporary housing; 4) FEMA/General Land Office will assume responsibility for establishing, documenting, and retaining records that indicate the highest level practicable below the

effective Base Flood Elevation (BFE) for each unit; 5) County-issued temporary permits for units will satisfy pre-Hurricane Harvey FEMA and National Flood Insurance Program requirements; and 6) FEMA will not sell units to recipients if sites are not compliant with floodplain regulations. These assurances were received in the form of a FEMA letter dated October 24, 2017, FEMA General Fact Sheet, FEMA Guidance Memorandum (DAP9453.3), and FEMA email dated November 14, 2017.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSIONERS' COURT OF ARANSAS COUNTY, TEXAS:

SECTION 1. The findings and recitations set out in the preamble to this Order are found to be true and correct and they are hereby adopted by the Commissioners Court and made a part hereof for all purposes.

SECTION 2. The Commissioners Court hereby finds that it is in the public interest to protect public health, safety, property, and the general welfare of the public to grant a variance until April 30, 2019 from flood elevation requirements for manufactured homes in floodplains (100-year flood plain, LiMWA, and Special Flood Hazard Area) for the limited purpose to allow the Federal Emergency Management Agency to provide temporary direct housing assistance in the form of manufactured homes, and readily fabricated dwellings, primarily mobile homes and park model mobile homes., and This requires a temporary suspension of the County code provisions as set out in the **Floodplain Management and Watershed Protection Order** governing manufactured housing as requested by FEMA and as recommended by the Floodplain Administrator in response to widespread damage caused by Hurricane Harvey. This variance is granted to meet an urgent and compelling need to provide temporary housing to eligible applicants. FEMA will otherwise comply with all Aransas County (County), City of Rockport (City), and Town of Fulton (Town) laws.

SECTION 2. The placement of FEMA's manufactured housing and readily fabricated dwellings to be used as temporary housing for disaster applicants within Aransas County, is allowed below the identified BFE as indicated on the Flood Insurance Rate Maps. This variance applies only to individual sites located on private residential property, cluster sites with two to five housing units, and community sites with six or more housing units. FEMA recognizes that its ability to place such temporary housing in the floodplain is regulated by Federal law and specifically, but without excluding other limitations from law, FEMA assures that the housing units will be elevated to the highest level practicable. In accordance with 44 C.F.R Section 9.13, FEMA assures that it will not place such temporary housing within a floodway or coastal high hazard area. FEMA further assures that the Regional Administrator has determined that sites in the floodplain provide the only practicable alternative. FEMA assumes the responsibility for providing utility connections, adequate access and egress to and from the proposed site of the temporary housing, adequate anchoring of the manufactured home or readily fabricated dwelling, consideration of social and neighborhood patterns, and all related regulations governing placement of the temporary housing. FEMA will remove the temporary manufactured homes or readily fabricated dwellings in accordance with the provisions of this Order. FEMA or any Federal or State Agency will only sell the MHU to the direct housing recipient if it is moved to a location that is compliant with the Floodplain Management Order or if the current, temporary permitted location is brought into compliance.

SECTION 3. This variance is limited in time in that this authority will end on April 30, 2019. All manufactured homes and readily fabricated dwellings placed by the Federal Emergency Management Agency using this authority must be removed by April 30, 2019. A request for any individual time extensions beyond this date must be individually approved by the Commissioners Court.

SECTION 4. The use of manufactured housing or readily fabricated dwelling where such use is prohibited prior to the adoption of this order shall cease by April 30, 2019.

SECTION 5. Commissioners Court hereby temporarily suspends Article 5 of the **Floodplain Management and Watershed Protection Order**, and authorizes the Floodplain Administrator, or his designee, to issue temporary permits and enforce temporary rules and conditional regulations relating to the placement, permitting, maintenance, removal, and related health and safety matters for manufactured homes located on residential, cluster, and community sites. Adopted fees, including development code fees and floodplain management and watershed protection fees, will remain in effect.

SECTION 6. The Commissioners Court hereby provides the County Judge the authority to approve community and cluster site locations. The Commissioners Court further authorizes the Judge, or his designee, to make individual determinations for site plan approval subject to appropriate conditions and safeguards that are consistent with the general purposes and intent of this Order and in accordance with any applicable rules contained in this Order.

SECTION 7. The Commissioners Court hereby determines that this temporary waiver and suspension of regulations governing manufactured housing and readily fabricated homes is considered reasonable for regulatory purposes to meet an urgent need for temporary housing. This Order does not imply that land or the temporary dwellings located within the Special Flood Hazard Area will be free from flooding or flood damages. This Order shall not create liability on the part of the County or any official or employee thereof for any flood damages, property damage, or personal injury that result from reliance on this Order or any administrative decision lawfully made thereunder.

SECTION 8. Violations and Penalties. 1. The Floodplain Administrator may revoke or suspend a temporary permit or approval issued under the provisions of this Order in cases where there has been false statement or misrepresentation as to a material fact in the application or upon which the permit or approval is based. 2. Any person, firm, corporation or agent who violates a provision of these regulations, fails to comply with the requirements of the temporary permit, including removal by April 30, 2019, or fails to obtain a temporary permit shall be guilty of Contempt of Commissioners Court of Aransas County. Each person shall be alleged guilty of a separate offense for each and every day or portion thereof during which any violations of any such provision of this regulation is committed or continued and upon conviction of any such violation such person shall be punished within the limits as provided by state law. 3. Commissioners Court may punish persons or entities that violate this Order with contempt by fine or imprisonment in accordance with the provisions of Section 81.023 of the Texas Local Government Code. Any person or entity securing a temporary permit under these regulations does so with the representation to the Commissioners' Court that he will comply with the terms of the permit and all County regulations. Commissioners Court has the power to enforce its Orders by civil contempt for violations of such representations. If the Commissioners Court finds the defendant to be guilty of contempt, it will enter such Order(s) as Commissioners' Court deems necessary to enforce and protect its jurisdiction over the matter.

SECTION 9. It is hereby declared to be the intention of the Commissioners Court that the sections, paragraphs, sentences, clauses and phrases of this Order are severable and, if any phrase, clause, sentence, paragraph or section of this Order should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clause, sentences, paragraphs and sections of this Order.

SECTION 10. All Orders or parts thereof in conflict herewith are repealed to the extent of such conflict only.

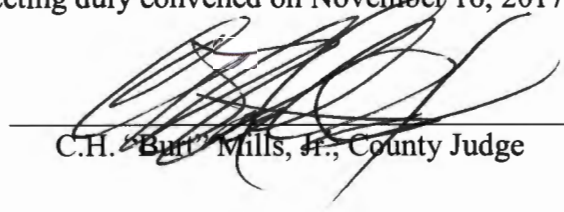
SECTION 11. Certification of Adoption

APPROVED BY: COMMISSIONERS' COURT OF ARANSAS COUNTY, TEXAS

DATE: November 16, 2017


ORDER BECOMES EFFECTIVE: November 16, 2017

I, the undersigned, C.H. "Burt" Mills, Jr., do hereby certify that the above is a true and correct copy of an order duly adopted by the Commissioners' Court of Aransas County, Texas, at a regular meeting duly convened on November 16, 2017.



C.H. "Burt" Mills, Jr., County Judge




Valerie K. Amason, County Clerk