

## San Diego County Code of Regulatory Ordinances

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**DIVISION 11. [FLOOD DAMAGE PREVENTION]\***


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**\*Note**--Added by Ord. No. 7534 (N.S.), effective 10-27-88, operative 9-27-88; chapters 1 through 6 repealed and reenacted by Ord. No. 8334 (N.S.), effective 1-6-94, operative 1-6-94; amended by Ord. No. 9998 (N.S.), effective 9-4-09.

**Cross reference(s)**--Flood hazard, § 91.1.105.10(e)(6).

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## **CHAPTER 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

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### **SEC. 811.101. STATUTORY AUTHORIZATION.**

The Legislature of the State of California has in Government Code Sections 65302, 65560 and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. This ordinance may be referred to as the Flood Damage Prevention Ordinance.

(Amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.102. FINDINGS OF FACT.**

(a) The flood hazard areas of the County of San Diego are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.103. STATEMENT OF PURPOSE.**

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

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;

- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) To help maintain a stable tax base by providing for the use and development of areas of special flood hazard so as to minimize future flood blighted areas caused by flood damage;
- (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.104. METHODS OF REDUCING FLOOD LOSSES.**

In order to accomplish its purposes this ordinance includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or that which result in damaging increases in erosion or flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Amended by Ord. No. 10631 (N.S.), effective 11-29-19)

## **CHAPTER 2. DEFINITIONS\***

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\*Cross reference(s)--Definitions, § 12.101 et seq.  
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### **SEC. 811.201. DEFINITIONS.**

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

- (a) "Accessory dwelling unit" means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons.
- (b) "Alluvial fan" means a desert phenomenon where streams emerge from canyons and deposit sand and rock in a cone-shaped formation fanning out from the canyon mouth.

(c) "Alluvial apron" means an area formed by alluvial deposits with essentially the same characteristics as alluvial fans but generally in smaller watersheds where the flow lines tend to be straighter. Alluvial aprons are designated on the Borrego Valley alluvial fans map.

(d) "Alluvial wash" means a recent flow path on an alluvial fan which is identified usually by an inspection of maps or aerial photographs or by a ground survey.

(e) "Area of shallow flooding" means a designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

(f) "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.

(g) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

(h) "Base flood elevation" means the water surface elevation resulting from the base flood.

(i) "Basement" means any area of the building having its floor subgrade below ground level on all sides.

(j) "Conditional Letter of Map Revision (CLOMR)" means a letter from FEMA commenting on whether a proposed project, if built as proposed, or proposed hydrology changes would meet minimum National Flood Insurance Program standards.

(k) "Conditional Letter of Map Revision Based on Fill (CLOMR-F)" means a letter from FEMA stating that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed.

(l) "Development" means any man-made change to improved or unimproved real estate in an area of special flood hazard, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of equipment or materials, or placement of manufactured homes which may increase flood depths, velocity or the area of inundation or result in a flood hazard as the result of collapse, flotation or other effect of the impact of flood waters on or as a result of the development activities.

(m) "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 regulation adopted by the County of San Diego.

(n) "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).

(o) "Fan Terminus Alluvial Wash" means the flow path where the bottom of an alluvial fan intersects with the edge of another alluvial fan.

(p) "Flood, flooding, or flood water" means a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides, mudflows or other flows of debris in surface water. It also includes the collapse or subsidence of land or other condition resulting from flood related erosion, scour or deposition.

(q) "Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

(r) "Flood Insurance Rate Map (FIRM)" means the official map dated June 15, 1984 as subsequently amended on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable in the County of San Diego.

(s) "Flood Insurance Study" means the official report dated December 15, 1983 as subsequently amended provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the FBFM, and the water surface elevations of the base flood in the County of San Diego.

(t) "Floodplain Administrator" means the Director of the County of San Diego, Department of Public Works.

(u) "Floodplain or flood-prone area" means any land area adjacent to a watercourse susceptible to being inundated by water from any source (see definition of "flooding").

(v) "Floodplain map" means a 1-inch equals 200-foot scale ortho-photo topographic map published by the County showing 100-year floodplain lines, floodway lines, and floodway water surface elevations, or floodplain hazard areas. The County "floodplain maps" and the FEMA FIRMs are the primary basis for floodplain regulation within the County.

(w) "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.

(x) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height but not to exceed one foot. Also referred to as "Regulatory floodway".

(y) "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(z) "Historic structure" means any structure that is listed in the National Register of Historic Places, the State Inventory of Historic Places, or otherwise meets the definition of a historic structure as that term is used in the regulations implementing the National Flood Insurance Program.

(aa) "Letter of Map Amendment (LOMA)" means a letter from FEMA stating that an existing structure or parcel of land that has not been elevated by fill (natural ground) would not be inundated by the base flood.

(bb) "Letter of Map Revision (LOMR)" means a letter from FEMA officially revising the current National Flood Insurance Program map to show changes to floodplains, floodways, or flood elevations.

(cc) "Letter of Map Revision Based on Fill (LOMR-F)" means a letter from FEMA stating that an existing structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

(dd) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of 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 design requirements of this ordinance.

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

(ff) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

(gg) "Market value" means the value determined by the Floodplain Administrator by estimating the cost to replace a structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed measured at the time a building permit is issued or, if the actual start of construction is more than 180 days after the issuance of a building permit or if no building permit is issued,

measured at the time of 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.

(1) The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry or, if such a guide is unavailable, a cost estimator or methodology acceptable to the Floodplain Administrator.

(2) The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the Floodplain Administrator, but shall not include economic or other forms of external obsolescence.

Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

(hh) "New construction" means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the County of San Diego.

(ii) "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 a floodplain management regulation adopted by the County of San Diego.

(jj) "Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;
- (2) 400 square feet or less when measured at the largest possible horizontal projection;
- (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.

(kk) "Special flood hazard area, "area of special flood hazard" and "SFHA"" means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year, and shown on FBFM or FIRM as Zone A, AO, A1-30, AE, A99, or AH; or on a County floodplain map as within a 100-year floodplain or on a County alluvial fan map within an alluvial fan area.

(ll) "Start of construction" means (i) the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; (ii) the placement of a manufactured home on a foundation; or (iii) "substantial improvement" of an existing structure. 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 a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(mm) "Structure" means any walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

(nn) "Substantial damage" means:

- (1) 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; or

(2) Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. This is also known as "repetitive loss."

(oo) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed.

For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations or 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 to assure safe living 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.

(pp) "Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

(qq) "Watercourse" means, for the purpose of this ordinance, a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas by the County of San Diego in which substantial flood damage may occur.

(Amended by Ord. No. 7800 (N.S.), effective 9-6-90; amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10091 (N.S.), effective 12-10-10; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

## **CHAPTER 3. GENERAL PROVISIONS**

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### **SEC. 811.301. LANDS TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the County of San Diego that are shown on a County floodplain or alluvial fan map, FIRM, Flood Insurance Study, or FBFM.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.302. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

County floodplain and alluvial fan maps and the FEMA issued FIRMs, originally dated June 15, 1984, Flood Insurance Studies, and FBFM for the County of San Diego and all subsequent revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. All map revisions must be approved by FEMA through its map revision process. County floodplain maps shall be retired in the location of the revision upon completion of a FEMA map revision. The County floodplain and alluvial fan maps may be supplemented by studies for other areas which follow implementation of this ordinance and which are recommended to the Board of Supervisors by the Floodplain Administrator. In case of conflict(s) between the County floodplain maps, County alluvial fan maps, FIRM, Flood Insurance Study, or FBFM, the more stringent of restrictions shall prevail and be deemed to govern.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10091, effective 12-10-10; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.303. COMPLIANCE.**

No structure; utility facilities, such as sewer, gas, electrical, and water distribution, transmission, and connection systems or equipment; or land shall hereafter be constructed, located, extended, converted, or altered by any person without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor and may additionally be declared a public nuisance.

Nothing herein shall prevent the Board of Supervisors from taking such lawful action as is necessary to prevent or remedy any violation.

(Amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.304. ABROGATION AND GREATER RESTRICTIONS.**

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

(Amended by Ord. No. 7800 (N.S.), effective 9-6-90)

### **SEC. 811.305. INTERPRETATION.**

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

- (a) Considered as minimum requirements;
- (b) If there are conflicting criteria or objectives, interpretation shall be made in the interest of sound floodplain management; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.306. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the County of San Diego, any officer or employee thereof, the State of California, the Federal Emergency Management Agency, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.307. SEVERABILITY.**

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

## **CHAPTER 4. ADMINISTRATION**

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### **SEC. 811.401. DEVELOPMENT PERMIT.**

A development permit shall be obtained before new construction, substantial improvements, or development begins within any area of special flood hazard. Application for a development permit shall include, but not be limited to:

(a) Plans in duplicate, drawn to scale, showing:

(1) Location, dimensions, and elevation of the area in question, existing and proposed structures, storage of materials and equipment, and other facilities or features which may impact flood waters;

(2) Proposed and existing locations of water supply, sanitary sewers, and other utilities;

(3) Existing and proposed graded contours, proposed cut and fill areas, and drainage facilities;

(4) Base flood elevation before and after permitted work within the area where the work is performed and all adjacent areas where the base flood elevation is changed in any way as a result of the work;

(5) Proposed elevation in relation to mean sea level, of the lowest floor (including basement), of all structures and the level to which any structures will be flood proofed.

(b) All certifications required by this ordinance and such additional certifications as may be required by the Floodplain Administrator;

(c) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

(e) Location of 100-year floodplain and floodway lines, both before and after proposed development.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10091, effective 12-10-10; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.402. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.**

The Director of Public Works for the County of San Diego is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

### **SEC. 811.403. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

(a) Permit Review. Review all development permits to determine that:



(1) The permit requirements of this ordinance have been satisfied;

(2) All necessary permits from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, have been obtained;

(3) The site is reasonably safe from flooding;

(4) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point; and

(5) Sites identified on flood plain maps as subject to erosion and/or sedimentation during major floods are provided with necessary protective bank stabilization or other structural protective measures. Special engineering studies will be required to support the level of protection provided.

(b) Use of Other Base Flood Data. The Floodplain Administrator shall determine the base flood elevation or depth utilizing the County alluvial fan maps, County floodplain maps, FIRM and other information in accordance with Section 811.302. When the base flood elevation or depth cannot be determined from applicable maps, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation or depth and floodway data available from a Federal, State or other source to determine the base flood elevation. The Floodplain Administrator may require an applicant for a development permit to provide analysis acceptable to the Floodplain Administrator from a licensed civil engineer or other professional qualified to make such determinations that establishes the base flood elevation or depth.

(c) Whenever a watercourse is to be altered or relocated:

(1) Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation of a watercourse;

(2) Submit evidence of such notification to the Federal Emergency Management Agency when in a mapped FEMA floodplain; and

(3) Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained. The Watercourse Ordinance provides the basis for regulation.

(d) Whenever base flood elevation, base flood depth, and/or the floodplain boundary are or may be changed:

(1) Ensure all Conditional Letters of Map Revision are obtained from FEMA prior to the issuance of grading permits or the start of construction where a grading permit is not required; and

(2) Prior to the issuance of a certificate of occupancy or the completion of any development for which a certificate of occupancy is not required, obtain a Letter of Map Revision (LOMR) from FEMA.

(3) Within six (6) months of learning of the change, submit technical or scientific data required by FEMA to reflect the change. For changes resulting from development projects, new construction or substantial improvements, the Floodplain Administrator may seek reimbursement from the project builder or property owner of any costs incurred by the County to provide the required information.

(4) The County may allow a floodway revision to be processed if it is demonstrated that no practicable alternatives exist to revising the boundaries of the previously adopted floodway.

(e) Notify FEMA in writing whenever the boundaries of the County have been modified by annexation or other means and include a copy of a map of the area impacted clearly delineating the adjustments to the County's boundaries.

(f) Obtain and maintain for public inspection and make available as needed:

(1) All certifications required by this ordinance and those which may be required by the Floodplain Administrator; and

(2) Records of all variance actions, including justification for their issuance.

(g) Make interpretations where 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).

(h) Take action to remedy violations of this ordinance.

(i) Complete and submit Biennial Report to FEMA as required. Identify any variances granted by the Floodplain Administrator in the report.

(j) Assure County's General Plan and any applicable Specific Plans are consistent with floodplain management objectives of this ordinance.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10091, effective 12-10-10; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

## **CHAPTER 5. PROVISIONS FOR FLOOD HAZARD REDUCTION**

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### **SEC. 811.501. STANDARDS OF CONSTRUCTION.**

In all areas of special flood hazards the following standards are required:

(a) Anchoring.

All new construction, substantial improvements, and development shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads (including the effects of buoyancy) from the base flood.

(b) Construction materials and methods. All new construction, substantial improvements and structures placed in an area of special flood hazard shall be constructed:

(1) With materials and utility equipment that are resistant to flood damage for all areas below the base flood elevation or depth.

(2) Using materials and practices that minimize flood damage.

(3) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and located so as to prevent water from entering or accumulating within the components during base flood conditions of flooding.

(4) With adequate drainage paths to guide flood waters around and away from proposed structures and any existing structures that may be adversely impacted by a change in drainage paths.

(c) Elevation and flood proofing.

(1) Residential construction in special flood hazard areas outside an alluvial fan. All new construction, substantial improvements and placement of a residential structure within a special flood hazard area located outside an alluvial fan shall have the lowest floor, including basement, mechanical and utility equipment, and ductwork, but excluding garages used solely for parking or storing vehicles, access to or from the residence or storage in a manner that prevents stored objects from being carried away in a flood, elevated 1 foot above the base flood elevation. The elevation shall be certified on a FEMA elevation certificate by a registered civil engineer, licensed land surveyor, or architect and the design and method of construction of any portion of a

garage allowable below base flood elevation certified by a registered civil engineer, licensed land surveyor, or architect as meeting these standards and standards imposed by the National Flood Insurance Program, and verified by the County building inspector. Such certification and verification shall be provided to the Floodplain Administrator.

(2) Construction in alluvial fans. New construction, substantial improvement and placement of any structure in Zone AO or within the alluvial fan boundaries shown on the Borrego Valley alluvial fans map or FIRM, shall have the lowest floor, including basement, mechanical and utility equipment, and ductwork, elevated at least 1 foot above the base flood depth. The elevation shall be certified on a FEMA elevation certificate by a registered civil engineer, licensed land surveyor, or architect, and verified by the County building inspector. Such certification and verification shall be provided to the Floodplain Administrator.

(3) Nonresidential construction in special flood hazard areas outside an alluvial fan. All new construction, substantial improvements and placement of a nonresidential structure shall either be elevated in conformance with the standards applicable to residential construction or conform to the following standards:

A. Be flood proofed so that below the base flood elevation the structure (including attendant utility and sanitary facilities), is watertight with walls substantially impermeable to the passage of water;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

C. The elevation shall be certified on a FEMA elevation certificate and the design and method of construction of any portion of a structure allowable below base flood elevation certified by a registered civil engineer, licensed land surveyor, or architect as meeting these standards and standards imposed by the National Flood Insurance Program, and verified by the County building inspector. Such certification and verification shall be provided to the Floodplain Administrator.

(4) Structures elevated on piers, columns, or stem walls to allow unobstructed flow of the base flood shall have the bottom of the lowest horizontal structural member elevated above the base flood elevation or base flood depth.

(d) General requirements applicable to alluvial fans. All new construction, substantial improvements and structures placed in Zone AO or within the alluvial fan boundaries shown on the Borrego Valley alluvial fans map or FIRM, shall meet the following minimum requirements:

(1) All structures shall be raised on piers, columns or stem walls oriented in the direction of flow, so as not to impede the flow of floodwater and debris, and have the lowest horizontal structural member elevated above the base flood depth as shown on the effective FEMA FIRM map.

(2) The use of fill to elevate a structure may be allowed for structures located on a lot greater than one acre but less than five acres and not associated with a new development of greater than 50 lots and meeting all of the following:

A. For one- and two-family dwelling units and accessory structures, elevated on fill with the lowest floor or slab a minimum one foot above the base flood depth as shown on the effective FEMA FIRM Map. For all other structures, elevated on fill with the lowest floor or slab a minimum of two feet above the base flood depth as shown on the effective FEMA FIRM Map.

B. Structure and associated fill do not divert floodwater flow or debris in a manner negatively affecting other lots, based on a site-specific review.

(3) No improvement shall cause a major disruption to the natural alluvial fan process.

(4) Foundations of structures shall be protected from erosion.

(5) The difference in elevation between the lowest floor, including basement, mechanical and utility equipment, and ductwork and the base flood depth shall be certified on a FEMA elevation certificate by a

registered civil engineer, licensed land surveyor, or architect, and verified by the County building inspector. Such certification and verification shall be provided to the Floodplain Administrator.

(6) The criteria set forth in this Chapter with regard to alluvial fans apply to alluvial aprons. Depths of one foot and velocity of 8 feet/second are to be used unless more specific information is available or the Floodplain Administrator determines a different standard should be used.

(7) Projects which impact alluvial washes must carry the flow from the wash around any structure or obstruction and redistribute the flow without adversely affecting adjoining property.

(8) Projects which impact fan terminus alluvial washes shall be designed so that any obstruction to flow will not cause a cumulative increase in the base flood depth of more than 0.5 feet.

(9) A preliminary approval of the flood insurance rating shall be obtained before construction approval.

(e) Flood Openings.

All new construction, substantial improvements, and placement of any fully enclosed nonresidential structure or garage that is usable solely for parking of vehicles, access to or from the structure or storage in a manner that prevents stored objects from being carried away in a flood, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified on a FEMA elevation certificate by either a registered civil engineer, licensed land surveyor, or architect as meeting or exceeding the stricter of the requirements imposed pursuant to the National Flood Insurance Program or this Ordinance as follows:

(1) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(2) The bottom of all openings shall be no higher than one foot above grade;

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and

(4) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

## **SEC. 811.502. STANDARDS FOR UTILITIES.**

(a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

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

## **SEC. 811.503. STANDARDS FOR SUBDIVISIONS AND DEVELOPMENT.**

(a) All subdivision proposals, including but not limited to a new manufactured home park or subdivision and expansion to an existing manufactured home park or subdivision shall, at a minimum:

(1) Identify the special flood hazard areas, any floodway areas, and the base flood elevations or depths within the proposed subdivision.

(2) Provide the elevation of proposed structure(s) and pads.

(3) Be consistent with the need to minimize flood damage.

(4) Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(5) Provide adequate drainage to reduce exposure to flood hazards.

(b) All new construction, substantial improvements, and placement of a structure, or other development in an area of special flood hazard that will change the base flood elevation, base flood depth or floodplain boundary shall only be commenced in accordance with the following requirements:

(1) Submit a completed application for a development permit, including but not limited to plans and specifications for the project to the Floodplain Administrator;

(2) Prior to the commencement of any grading activities, obtain a Conditional Letter of Map Revision from FEMA; and

(3) Prior to the issuance of a certificate of occupancy or the completion of any development for which a certificate of occupancy is not required, obtain a Letter of Map Revision from FEMA.

(c) All Conditional Letters of Map Revision (CLOMR) and Letters of Map Revision (LOMR) shall incorporate and address floodplain and floodway shown on the County floodplain or alluvial fan map that either differs from, or was not previously included on, the FEMA FIRM.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

#### **SEC. 811.504. STANDARDS FOR MANUFACTURED HOMES.**

(a) All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

(1) Within Zones A, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, AH, and AE on a community's Flood Insurance Rate Map that are not subject to provisions of Section 5.4.A will be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement, and be elevated so that either the:

(1) Lowest floor of the manufactured home is at least one-foot above the base flood elevation; or

(2) 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 where no BFE or County-provided water surface elevation is available.

(c) The elevation of the lowest floor shall be certified by a registered civil engineer, licensed land surveyor, or architect, and verified by the County building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10091, effective 12-10-10; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

#### **SEC. 811.505. STANDARDS FOR RECREATIONAL VEHICLES.**

All recreational vehicles placed in an area of special flood hazard shall:

(a) 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 no permanently attached additions; or

(b) Be anchored to prevent flotation or lateral movement resulting from the effects of the base flood or be stored on an adequately anchored and raised platform with a parking surface at least 1 foot above the base flood elevation or depth; or

(c) Be on the site for fewer than 180 consecutive days.

(Added by Ord. No. 9998 (N.S.), effective 9-4-09)

### **SEC. 811.506. FLOODWAYS.**

Located within areas of special flood hazard 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 apply:

(a) No encroachments, structures, fill, new construction, substantial improvements, additions, development, storage or placement of vehicles, debris or other materials, or other uses which may increase flood depths or interfere with flood flows to any degree are allowed unless certification by a registered professional engineer is provided to the Floodplain Administrator through a "No Rise" Certification demonstrating that the proposed use shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If a "No Rise" Certification satisfactory to the Floodplain Administrator is provided, the use may be allowed provided all other requirements of this Chapter are met.

(c) "Breakaway" fence sections may be allowed within the floodway if it can be successfully demonstrated that all sections not parallel to the direction of flow would safely fail in place due to a force less than that of the site-specific peak 1% annual chance flow within the floodway.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

## **CHAPTER 6. VARIANCE PROCEDURE**

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### **SEC. 811.601. APPEAL BOARD.**

(a) The Board of Supervisors of the County of San Diego shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(b) The Board of Supervisors shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

(c) In deciding on appeals and requests for variances, the Board of Supervisors shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:

(1) Danger that materials may be swept onto other lands to the injury of others;

(2) Danger of life and property due to flooding or erosion damage;

- (3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) Importance of the services provided by the proposed facility to the community;
- (5) Necessity to the facility of a waterfront location, where applicable;
- (6) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) Compatibility of the proposed use with existing and anticipated development;
- (8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) Safety of access to the property in time of flood for ordinary and emergency vehicles;
- (10) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
- (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(d) No particular weight need be given by the Board of Supervisors to any one or combination of the factors identified in Section 811.601(c). Failure of the Board of Supervisors to consider any one or more of the factors shall not invalidate the Board's decision. The Board may base its decision on any one or more of the factors listed above or such other factors as the Board deems pertinent to the decision.

(e) The Board of Supervisors may attach such conditions to the granting of variances or an appeal as it deems necessary to further the purposes of the ordinance.

(f) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration in the County's biannual report.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)

## **SEC. 811.602. CONDITIONS FOR VARIANCES.**

(a) Variances may be issued for the rehabilitation or restoration of historic structures where the proposed repair or rehabilitation will not preclude the structure from continuing to carry a historic designation and the variance is the minimum necessary to preserve the historic design and character of the structure. The procedures set forth in the remainder of this section are not applicable to variances for historic structures.

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

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

(d) Variances shall only be issued upon:

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

(e) 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, in conformance with Sections 811.602(a) through 811.602(d).

(f) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to allow construction of a structure below the base flood elevation will likely result in increased premium rates for the flood insurance and that such construction below the base flood elevation increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the office of the County of San Diego County Recorder.

(g) Variances may be issued for new construction and substantial for other development necessary for the conduct of a functionally dependent use provided that (1) the criteria of Section 811.602(a) through 811.602(e) are met, and (2) 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. A functionally dependent use is a use which cannot be performed unless it is located or carried out in close proximity to water, and includes, without limit docking facilities, port facilities, and ship building and repair facilities, but excludes long-term storage or related manufacturing facilities.

(Amended by Ord. No. 9998 (N.S.), effective 9-4-09; amended by Ord. No. 10631 (N.S.), effective 11-29-19)