

ORDINANCE NO. _

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING MUNICIPAL CODE CHAPTER 14.18, FLOODPLAIN REGULATIONS, TO INCORPORATE VARIOUS ADMINISTRATIVE REVISIONS NECESSARY FOR THE CITY TO REMAIN IN COMPLIANCE WITH THE CODE OF FEDERAL REGULATIONS AND REMAIN IN THE NATIONAL FLOOD INSURANCE PROGRAM

WHEREAS, the City's original Floodplain Regulations (Municipal Code Chapter 18.54) were adopted by City Council on November 14, 1978. Ordinance 1842 amended the Chula Vista Flood Management Program of 1970, bringing it into compliance with the National Flood Insurance Program (NFIP) Rules and Regulations of that time; and

WHEREAS, the City adopted several Ordinances to update the Floodplain Regulations in order to remain in compliance with the NFIP. On December 11, 2007, Ordinance 3097 recodified the Floodplain Regulations to Municipal Code Chapter 14.18; and

WHEREAS, on June 20, 2019, the City received notification from the Federal Emergency Management Agency (FEMA) that amendments to the City's Floodplain Regulations are necessary to remain in compliance with the Code of Federal Regulations (CFR) Chapter 60.3 which allows the City to remain in the NFIP; and

WHEREAS, on September 16, 2019, the City received a follow-up notification from FEMA that a new Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been completed for our community and will become effective on December 20, 2019; and

WHEREAS, per Floodplain Regulations - Chapter 14.18.030, all subsequent amendments to the FIS and FIRM are hereby adopted by reference and declared to be part of this title; therefore, no additional action is needed; and

NOW, THEREFORE, the City Council of the City of Chula Vista, does ordain as follows:

Section I. Chapter 14, Section 14.18 (Floodplain Regulations) is amended to read as follows:

14.18.000 Statutory Authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare or its citizenry. Therefore, the City of Chula Vista of San Diego County does hereby adopt the following floodplain management regulations.

14.18.010 Purpose and intent.

A. The flood areas of the City of Chula Vista could be subject to periodic inundation that could result 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. These flood losses could be caused by land uses that are inadequately elevated,

floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to flood losses.

B. In order to participate in the Federal Flood Insurance Program (National Flood Disaster Protection Act of 1973), the City must adopt regulations controlling the development of property within identified floodplains pursuant to the direction of said Act. The Building Official and the City Engineer are therefore assigned certain added responsibilities, and they are authorized and directed to enforce all the provisions of this chapter.

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

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.020 Lands to which this chapter applies.

The provisions of this chapter shall apply to all areas of special flood hazards (SFHAs) within the jurisdiction of the City of Chula Vista. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.030 Basis for establishing the areas of special flood hazards.

A. The areas of special flood hazards identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 19, 1997, and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated June 19, 1997, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be part of this title.

B. This Flood Insurance Study and attendant mapping define the minimum area of applicability of this chapter and may be supplemented by studies of other areas which are recommended to the City Council by the City Engineer. The study and Flood Insurance Rate Maps are on file at the City Public Services Building at 276 Fourth Avenue. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.040 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Control filling, grading, dredging, and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.050 Compliance.

No structure or land shall be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing in this chapter shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.060 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.070 Interpretation.

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body; and deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.080 Warning and disclaimer of liability.

The degree of flood protection required by this chapter 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 manmade or natural causes. This chapter does not imply that land outside the areas of the SFHAs or uses permitted within such SFHAs will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, or any of its elected or appointed officials, officers, or employees, the state of California, the Federal Insurance Administration, or the Federal Emergency Management Agency,

for any flood damages that result from reliance on this chapter or any administrative decision lawfully made pursuant to this chapter. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.090 Severability.

This chapter and its various parts are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion other than the section so declared to be unconstitutional or invalid. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.100 Definitions.

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

A. “Accessory structure, low-cost and small” means a structure that is solely for the parking of no more than two cars; or limited storage (small, low cost sheds).

B. “Appeal” means a request for a review of the Floodplain Administrator’s or Building Official’s interpretation of any provision of this chapter.

C. “Base flood” means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the 100-year flood).

D. “Base flood elevation (BFE)” means the water surface level of a watercourse or waterbody referenced to an established datum, that corresponds to a flood event that has a one percent chance of being equaled or exceeded in any given year.

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

F. “Development” means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations, **or storage of equipment or materials.**

G. “Elevation certificate” means a document of the National Flood Insurance Program (NFIP) used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment or Revision (LOMA or LOMR-F).

H. “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) was completed before November 14, 1978.

- I. “Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites in an existing manufactured home park or subdivision 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).
- J. “Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain that may impede or alter the flow capacity of a floodplain.
- K. “Flood” means a temporary rise in a stream’s flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel, or an unusual and rapid accumulation of runoff or surface waters from any source.
- L. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- M. “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.
- N. “Flood Insurance Rate Map (FIRM)” 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 risk premium zones applicable to the community.
- O. “Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- P. “Floodplain” or “flood-prone area” means any land area susceptible to being inundated by water from any source. See “Flood.”
- Q. “Floodplain Administrator” means the City Engineer.
- R. “Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- S. “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 one foot. See “Regulatory floodway.”

T. “Grading” means any excavating or filling or combination thereof and shall include the land in its excavated or filled conditions.

U. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

V. “Historic resource” means any structure, site, building, object, or natural feature that is:

1. Listed or determined to be an eligible resource for listing in the National Register of Historic Places (a listing maintained by the Department of the Interior);

2. Listed in or determined to be an eligible resource for listing in the California Register of Historical Resources;

3. Listed in or determined to be an eligible resource for listing in the Chula Vista register of historic sites; and

4. Any historic resource that the City determines to be historically significant; provided, that the determination of historical significance is supported by substantial evidence in light of the whole record.

For the purposes of this definition, “eligible resource” means a historic resource that is not listed on the National Register, the California Register, or the Chula Vista list register of historic sites and/or is not included in the local historic resources inventory, but appears to meet one or more of the criteria for designation.

W. “Land development permit” means as defined in Chapter 15.04 CVMC.

X. “Letter of Map Revision (LOMR)” is a letter issued by FEMA stating that a particular structure or parcel of land is removed from the 100-year floodplain, generally due to grading or construction of flood control projects. A developer or government agency constructing an eligible project within the 100-year floodplain (as shown on the most recent Flood Insurance Rate Map or subsequent LOMRs) is required to apply for a LOMR.

Y. “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 non-elevation design requirements of this chapter.

Z. “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For flood management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for **greater than** 180 consecutive days **or longer**. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

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

AB. “Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

AC. “New construction,” for floodplain management purposes, means structures for which the start of construction commenced on or after November 14, 1978, and includes any subsequent improvements to such structures.

AD. “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 November 14, 1978.

AE. “Obstruction” includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

AF. “One-hundred-year flood” means the condition of flooding having a one percent chance of annual occurrence. See “Base flood.”

AG. “Recreational vehicle” means a vehicle that is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest 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.

AH. “Regulatory flood elevation” means the water surface elevation of the 100-year flood; **refer to base flood elevation.**

AI. “Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The designated regulatory floodways are **depicted on the effective FIRM. the channels of the Sweetwater River and Telegraph Canyon Creek shown on the current Flood Boundary and Floodway Map, and the Otay River and Poggi Canyon Creek as shown on the County of San Diego floodway map.**

AJ. “Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

AK. “Special flood hazard area (SFHA)” means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on a Flood Hazard Boundary Map (FHBM) or FIRM as Zone A, AO, A1 – A30, AE, A99, or AH.

AL. “Start of construction” includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for 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. 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.

AM. “Structure” means a walled and roofed structure, including a gas or liquid storage tank that is principally above the ground, including, but without limitation to, buildings, factories, sheds, cabins, mobile homes, and other similar uses.

AN. “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.

AO. “Substantial improvement” means any reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of the construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. However, the term does not 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 to assure safe living conditions; or
2. Any alteration of a historic resource; provided, that the alteration would not preclude the structure’s continued designation as a historic resource.

For the purposes of this chapter, 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 any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations, or structures listed in national or California registers of historic places.

AP. “Variance” means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

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

AR. “Watercourse” means 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 in which substantial flood damage may occur.

AS. “Zone” means an area delineated on the Flood Insurance Rate Maps and Flood Hazard Boundary Maps with respect to its potential flood hazard. See “Special flood hazard area.” (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.110 Floodplain development – Permits required.

No person, including property owners, contractors, private engineers or others, shall erect, construct, enlarge, or improve any building or structure, or begin development within a SFHA, including the placement of manufactured homes, without first obtaining a building permit, land development permit, or any other permit required pursuant to Chapters 15.04 and 15.08 CVMC for each such action. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.120 Application requirements.

A. Each application for a building permit, land development permit, or any other permit required pursuant to Chapters 15.04 and 15.08 CVMC in a SFHA shall include:

1. Necessary plans and specifications for the proposed construction showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities;
2. Elevations (in relation to sea level) of the lowest floor (including basement) or, in the case of floodproofed nonresidential structures, the elevation to which it has been floodproofed. Certification, submitted by a licensed civil engineer, structural engineer, or architect, that the plans and specifications for any proposed building or structure comply with the floodproofing requirements of the National Flood Insurance Program as revised;
3. Evidence that electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
4. Any other information as reasonably may be required by the Building Official and the City Engineer.

B. In the coastal zone, development in SFHAs shall also be required to obtain a coastal development permit consistent with the applicable provisions of the certified Local Coastal Program. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.130 Standards for building construction in SFHA.

A. A Conditional Letter of Map Revision (CLOMR) shall be obtained prior to the construction of a proposed flood control project based on design plans approved by the City. Construction of the proposed flood control project and land preparation as specified in the start of construction definition will be allowed after the CLOMR is approved by FEMA.

B. All LOMRs for flood control projects shall be approved by FEMA prior to the issuance of building permits. Building permits shall not be issued based on CLOMRs.

C. The following requirements pertain to construction in areas that have not been removed from the SFHA by an approved LOMR:

1. All new construction and substantial improvements, **including manufactured homes**, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction and substantial improvements, **including manufactured homes**, shall be constructed:

a. With flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;

b. Using methods and practices that minimize flood damage;

c. 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; and

d. Within Zones AH or AO, so that there are adequate drainage paths around the structures on slopes to guide flood waters around and away from the structures.

3. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, 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 floodwater. Designs for meeting this requirement must be certified by a registered civil or structural engineer or architect and must meet or exceed the following minimum criteria:

a. For non-engineered openings:

i. 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;

ii. The bottom of all openings shall be no higher than one foot above grade;

iii. 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

iv. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.140 Standards for utilities.

A. The design of all new and replacement water supply and sanitary sewage systems shall be certified by a registered professional in the respective field of expertise. All new and replacement water supply and sanitary sewage systems shall be designed and constructed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into floodwaters.

B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.150 Standards for residential structures.

For all new construction and substantial improvements of residential structures, the lowest floor elevation (to include basement) of new residential structures shall be elevated to a minimum of one foot above the regulatory flood elevation; except that in Zone AO, the lowest floor (including basement) shall be as high as the depth number in feet **on the effective FIRM** above the highest adjacent grade or two feet if no depth number is specified **on the effective FIRM**. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.160 Standards for nonresidential structures.

A. All new construction and substantial improvements of nonresidential structures shall meet the following standards:

1. The lowest floor elevation (to include basement) of nonresidential structures shall be elevated or floodproofed to a minimum of one foot above the regulatory flood elevation; except that in Zone AO, the lowest floor (including basement) shall be as high as the depth number in feet **on the effective FIRM** above the highest adjacent grade, or two feet if no depth number is specified. In the alternative, **nonresidential structures, including** attendant utility and sanitary facilities, shall be completely floodproofed to or above **the regulatory flood elevation level** so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
2. Construction materials and utility equipment shall be resistant to floodwater damage;
3. Construction methods and practices shall minimize flood damage; and
4. The design **and methods** of all new construction and substantial improvements of nonresidential structures shall be certified by a registered professional engineer **or architect that the standards of this section are satisfied. And surveyor and shall be designed or anchored to prevent floatation, collapse or lateral movement of the structure or portions of the structure due to flooding.**

B. Any nonresidential structure proposed to be floodproofed in accordance with this chapter shall be certified by a licensed civil engineer, structural engineer or architect, subsequent to construction of the proposed building or structure but prior to final approval for use or occupancy thereof and the elevation to which such floodproofing is effective shall be specified. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.170 Standards for garages and accessory structures.

A. Attached Garages.

1. All garages attached to a residential structure and constructed with the garage floor slab below the BFE shall be designed to allow for the automatic entry and exit of floodwaters. Areas of the garage below the BFE shall be constructed with flood resistant materials as specified in FEMA Technical Bulletin TB 2-93.

2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed.

B. Detached Garages and Accessory Structures.

1. Accessory structures used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds) may be constructed such that its floor is below the BFE, provided the structure meets the following standards:

a. The accessory structure shall be used only for parking or limited storage;

b. The portions of the accessory structure located below the BFE shall be built using flood-resistant materials;

c. The accessory structure shall be adequately anchored to prevent flotation, collapse and lateral movement;

d. Any mechanical and utility equipment in the accessory structure shall be elevated or floodproofed to or above the BFE;

e. The accessory structure must comply with floodplain encroachment provisions in CVMC 14.18.210;

f. The accessory structure shall be designed to allow for the automatic entry and exit of floodwaters; and

g. The below-grade parking areas shall comply with the requirements in FEMA Technical Bulletin TB-6. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.180 Standards for recreational vehicles.

All recreational vehicles placed in Zones A1 – A30, AH, and AE shall either:

A. Be on the site for fewer than 180 consecutive days; or

B. 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

C. Have a permit required in CVMC 14.18.110 and meet the elevation and anchoring requirements for manufactured homes in CVMC 14.18.190. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.190 Standards for manufactured homes.

A. All manufactured homes that are placed on or substantially improved within a special flood hazard area and which are:

1. Outside of a manufactured home park or subdivision; or

2. In a new manufactured home park or subdivision; or

3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision within which a manufactured home has incurred “substantial damage” as the result of a flood;

shall be certified by a registered professional engineer and surveyor and shall 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 anchored 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 a special flood hazard area and not subject to the provisions of subsection (A) of this section shall be certified by a registered professional engineer and surveyor and shall be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and shall be elevated so that either:

1. The lowest floor of the manufactured home is at least one foot above the base flood elevation; or
2. 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. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.200 Standards for repair, reconstruction or improvement of streets, utilities, and pads in manufactured home parks.

The following standards apply within Zones A1 – A30 for new manufactured home parks and manufactured home subdivisions, expansions to existing manufactured home parks and manufactured home subdivisions, and existing manufactured home parks and manufactured home subdivisions. All repair, reconstruction or improvement of the streets, utilities and pads which equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced shall comply with the following standards:

- A. Stands or lots shall be elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at least one foot above the base flood level;
- B. Surface drainage and access for a hauler shall be adequate; and
- C. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than 10 feet apart, and reinforcement shall be provided for pilings more than six feet above the ground level. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.210 Standards for floodways.

Because floodways are an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, and have erosion potential, the following standards apply:

- A. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1 – A30 and AE, unless it is

demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one foot at any point within the City;

B. Within an adopted regulatory floodway, encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge; and

C. All new construction, substantial improvement, and other proposed development in a floodway shall comply with all other applicable provisions of this chapter. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.220 Standards for subdivisions and large developments.

A. All proposals for subdivisions and other new development, **including proposals for manufactured home parks and subdivisions**, incorporating more than five acres or 50 lots, whichever is lesser, shall show on tentative parcel maps, tentative subdivision maps or site plans, regulatory flood elevation data for any included area designated Zone A, Zone A1 – A30 or Zone AO.

B. All preliminary subdivision proposals, **including proposals for manufactured homes**, shall identify the special flood hazard area and the elevation of the base flood.

C. All subdivision plans shall provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor.

D. All subdivision proposals shall be consistent with the need to minimize flood damage.

E. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

F. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.230 Duties of City Engineer as Floodplain Administrator.

A. The City Engineer shall act as the Floodplain Administrator and shall administer, implement, and enforce the standards and regulations of this chapter by granting or denying land development permits, or other permits in accordance with the terms of this chapter.

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

1. Prior to issuance, review all building permits, land development permits, or any other permits required pursuant to Chapters 15.04 and 15.08 CVMC to assure that:
 - a. All proposed developments are consistent with the need to minimize flood damage;
 - b. Adequate drainage is provided so as to reduce exposure to flood hazards;
 - c. All public utilities and facilities are located so as to minimize or eliminate flood damage;
 - d. The natural landscape of all designated floodways and major watercourses is substantially preserved; An evacuation plan indicating alternate vehicular access and escape routes is filed with appropriate disaster preparedness authorities for manufactured home parks and manufactured home subdivisions located within Zone A, Zones A1 – A30 and Zone AO;
 - e. Any encroachments, including fill, new construction, substantial improvements, and other developments within the designated regulatory floodways that would result in any increase in flood levels during the occurrence of a 100-year flood discharge are prohibited; and
 - f. In the coastal zone, all subdivision and land development permit applications comply with the provisions of the certified Local Coastal Program and the standards of subsections (B)(1) (a) through (f) of this section.
 - g. For properties located within Zone A without a base flood elevation, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, as a basis for elevating residential and nonresidential structures to or above the base flood level, and for floodproofing nonresidential structures, pursuant to 44 CFR 60.3(b)(4).
2. Prior to issuance, review all land development permits or other permits to determine if the site of the proposed development is reasonably safe from flooding, that all applicable requirements of the National Flood Insurance Program have been met, and that all necessary permits have been obtained as required by federal or state law. Any permits required by federal or state law shall be obtained by the applicant prior to issuance of any permit by the City.
3. Submit or assure that the permit applicant submits technical or scientific data to FEMA for a LOMR, within six months of information becoming available or project completion, whichever comes first, so that, upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.
4. Notify FEMA in writing whenever the City boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new City limits.
5. Make interpretations as to the exact location of the boundaries of the SFHAs where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in CVMC 14.18.290.
6. For all new and substantially improved structures within SFHAs, obtain and maintain records of lowest floor elevations and elevations to which structures have been floodproofed, pursuant to 44 CFR 60.3(b)(5).

7. Take action to remedy violations of this chapter.
8. Complete and submit biennial reports to FEMA.
9. **Maintain a record of all variance actions, including justification for their issuance, and report such variances issued to FEMA.**
10. Work with appropriate state and federal agencies in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.240 Duties of the Building Official.

The duties and responsibilities of the Building Official shall include, but not be limited to, obtaining, reviewing, and reasonably utilizing any base flood elevation and floodway data available from a federal, state or other source, and assuring that all new construction, substantial improvements, placement of manufactured homes and prefabricated buildings, or other development in the SFHA meets all applicable standards in this chapter. In addition, the Building Official shall provide records for new and substantially improved structures within SFHAs to the Floodplain Administrator in accordance with CVMC 14.18.230(B)(6). (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.250 Duties of the Planning Director.

The duties and responsibilities of the Planning Director shall include, but not be limited to, assuring that the General Plan is consistent with floodplain management objectives in this chapter. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.260 Alteration or relocation of watercourses.

The Floodplain Administrator shall review all plans for alteration or relocation of any watercourse within the City to assure that the flood-carrying capacity of such watercourse is maintained. Prior to any alteration or relocation of a watercourse, or in riverine situations, the Floodplain Administrator shall notify **affected-adjacent** communities and the state coordinating office of FEMA. The Floodplain Administrator shall submit copies of such notifications to the administrator of the Federal Insurance Administration. The Floodplain Administrator shall assure that, in the coastal zone, any subdivision that involves the alteration or relocation of a stream shall also conform to the applicable provisions of the certified Local Coastal Program. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.270 Floodplain variances.

A. The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. Mere economic or financial hardship alone, inconvenience, aesthetic considerations, or physical handicaps cannot, as a rule, qualify as exceptional hardships. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique

characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

B. The issuance of a variance is for floodplain management purposes only. Federal flood insurance premium rates are determined by the National Flood Insurance Program according to actuarial risk and will not be modified by the granting of a variance.

C. It is the duty of the City of Chula Vista to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

1. A property owner and/or developer may apply for a floodplain variance upon payment of a fee as designated in the Master Fee Schedule. The Floodplain Administrator shall review all applications for variances. In evaluating applications for variances, he shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

- a. Danger that materials may be swept onto other lands to the injury of others;
- b. Danger of life and property due to flooding or erosion damage;
- c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- d. Importance of the services provided by the proposed facility to the community;
- e. Necessity to the facility of a waterfront location, where applicable;
- f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. Compatibility of the proposed use with existing and anticipated development;
- h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
- j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the proposed site; and
- k. 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.

2. Variances may be issued for new construction, substantial improvement, and other proposed new development 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. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

3. Variances may be issued for the repair or rehabilitation of historic resources as defined in this chapter, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic resource and the variance is the minimum necessary to preserve the historic character and design of the structure.

4. The Floodplain Administrator may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.280 Findings necessary for variances.

A. In granting a variance, the Floodplain Administrator shall make the following findings:

1. That the proposed development is not located in any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result;

2. That the variance is the minimum necessary considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter;

3. That failure to grant the variance would result in exceptional hardship to the applicant;

4. That granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, conflict with existing local laws or ordinances or create a nuisance; and

5. That granting of a variance will not cause fraud or victimization. For example, buildings that are permitted to be constructed below the base flood elevation are subject during their life (estimated at 50 to 100 years) to increased risk of flood damage, while future owners of the property and the community are subject to the costs, inconvenience and danger associated with the increased flooding potential.

B. The Floodplain Administrator shall include the following in a written notice for any variance granted and shall record, or cause to be recorded, the notice in the Office of the County Recorder so that the notice appears in the chain of title of the affected parcel of land:

1. That the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for every \$100.00 of insurance coverage; and

2. That such construction below the base flood level increases risks to life and property.

C. The Floodplain Administrator shall maintain a record of all variance actions, including justification for the issuance of any variance. This record will be included in a biennial report submitted to FEMA. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.290 Appeals.

The Board of Appeals and Advisors shall hear appeals from the decision of the Floodplain Administrator regarding variances. The decision of the Board of Appeals and Advisors is final. (Ord. 3210, 2011; Ord. 3097, 2007).

14.18.300 Chapter supersedes any conflicting statutes.

A. This chapter shall take precedence over conflicting ordinances or parts of ordinances with respect to floodplain administration. The City Council may, from time to time, amend the ordinance codified in this chapter to reflect any and all changes in the National Flood Insurance Program Regulations.

B. In the coastal zone, where conflicts arise between this chapter and the certified Local Coastal Program, the latter shall prevail. (Ord. 3210, 2011; Ord. 3097, 2007).

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

William S. Valle
Director of Engineering & Capital Projects

Glen R. Googins
City Attorney