

ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE AMENDING ARTICLE VI OF CHAPTER 9 OF THE SALINAS MUNICIPAL CODE UPDATING THE FLOODPLAIN REGULATIONS

City Attorney's Impartial Analysis

This Ordinance amends sections of Chapter 9 of the Salinas Municipal Code to incorporate 44 CFR Part 60.3(d) of the NFIP regulations.

WHEREAS, the Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the City of Salinas and such areas may be subject to periodic inundation which may 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, and

WHEREAS, the City of Salinas was accepted for participation in the National Flood Insurance Program on November 4, 1981 and the City Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, in September 2018, FEMA Region IX informed the County of Monterey, City of Salinas, City of Gonzales and City of Soledad of a project to update the flood maps for certain creeks within the County. The upper portion of the Natividad Creek was mapped as part of the update; and

WHEREAS, preliminary Flood Insurance Study (FIS) report, preliminary Flood Insurance Rate Map (FIRM) and preliminary Summary of Map Actions (SOMA) were provided by FEMA on October 21, 2021; and

WHEREAS, a news release, along with a radio public service announcement, were issued by FEMA on May 11, 2022 of the public review period of the preliminary flood maps; and

WHEREAS, on May 30, 2023, FEMA issued a Letter of Final Determination indicating the updated FIS and FIRM will become effective on November 30, 2023, and requiring review of the city's floodplain regulations to align with 44 CFR Part 60.3(d) of the National Flood Insurance Program (NFIP).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF SALINAS AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and are by this reference incorporated herein in their entirety.

SECTION 2. Article VI of Chapter 9 of the Salinas Municipal Code is hereby amended as follows (Revisions are shown in underline/strikethrough text):

Chapter 9

Division I. Generally.

Sec. ~~9-51.1~~9-06.01. 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 of its citizenry. Therefore, the City Council of the City of Salinas does hereby adopt the following floodplain management regulations.

Sec. ~~9-51.2~~9-06.02. Findings of fact.

- (a) The flood hazard areas of Salinas, California 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 flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

Sec. ~~9-51.3~~9-06.03. Statement of purpose.

It is the purpose of this article 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 and private 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 second use and development of areas of special flood hazard so as to minimize future flood blight areas;

- (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.
- (i) Minimize unnecessary disruption of commerce, access and public service during times of flooding.
- (j) Require the use of appropriate construction practices in order to prevent or minimize future flood damage.
- (k) Contribute to improved construction techniques in the floodplain.
- (l) Meet the requirements of the National Flood Insurance Program for community participation as set forth in Title 44 Code of Federal Regulations, Section 59.22

Sec 9-06.04. Coordination with California Building Standards Code.

Pursuant to the requirement established in State statute that the City of Salinas administer and enforce the California Building Standards Code, the City Council of the City of Salinas hereby acknowledges that the building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the building codes.

Sec. 9-51.4.9-06.05. Methods of reducing flood losses.

In order to accomplish its purposes, this article 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 which result in damaging increases in erosion or in 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.

Sec. 9-52.1.9-06.06. Definitions.

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

- (a) "Accessory structure." See Section 37-50.010 of Salinas City Code. For floodplain management purposes, the term includes only accessory structures used for parking and storage.
- (b) "Accessory use." See Section 37-50.010 of the Salinas City Code.

- (c) "Agricultural structure" means a walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.
- (d) "Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
- (e) "Alteration of watercourse" means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
- (f) "Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.
- (g) "Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this article or a request for a variance.
- (h) "Area of shallow flooding" means a designated AO or AH 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. Such flooding is characterized by ponding or sheet flow.
- (i) "Area of special flood hazard." See "Special flood hazard area."
- (j) "ASCE 24" means the standard Flood Resistant Design and Construction, referenced by the building code, developed and published by the American Society of Civil Engineers, Reston, VA. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the building code.
- (k) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood").
- (l) "Base flood elevation (BFE)" means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).
- (m) "Basement" means any floor below the first story in a building (below ground level), except that a floor level in a building having only one floor shall be considered a basement unless such floor qualifies as a first story.
- (n) "Board of appeals" means the city council.

- (o) "Break-away walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A break-away wall shall have a safe design loading resistance of no less than ten and no more than twenty pounds per square foot. Use of break-away walls must be certified by a registered engineer or architect and shall meet the following conditions:
- (1) Break-away wall collapse shall result from a water load less than that which would occur during the base flood; and
 - (2) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.
- (p) "Building code" means California Code of Regulations Title 24, the California Building Standards Code, the family of building codes specifically adopted by the State of California and composed of:
- (1) Part 2, applicable to buildings and structures other than dwellings within the scope of this part.
 - (2) Part 2.5, applicable to one- and two-family dwellings and townhouses not more than three stories, and accessory structures.
 - (3) Part 10, applicable to existing buildings (as defined in that code).
 - (4) Other specified codes.
- (q) "Design flood" means the flood associated with the greater of the following two areas:
- (1) Area with a flood plain subject to a 1-percent or greater chance of flooding in any year.
 - (2) Area designated as a flood hazard area on a community's flood hazard map, or otherwise legally designated.
- ~~(q)~~(r) "Design flood elevation (DFE)" means the elevation of the highest flood (generally the BFE including freeboard) that a retrofitting method is designed to protect against. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where a depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet (610 mm).
- ~~(s)~~(s) "Development." See Section 37-10.280 of the Salinas City Code.
- ~~(s)~~(t) "Elevation Certificate" means an official record that shows new buildings and substantial improvements in all identified Special Flood Hazard Areas (SFHAs) are properly elevated. This elevation information is needed to show compliance with the floodplain management ordinance.

- ~~(t)~~(u) "Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.
- ~~(u)~~(v) "Exceptional hardship" means, for the purpose of variances from these regulations or the building code, the exceptional difficulty that would result from a failure to grant a requested variance. Mere economic or financial hardship is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors do not rule, qualify as exceptional hardships. All of these circumstances can be resolved through other means without granting variances, even when the alternatives are more expensive or require the property owner to build elsewhere or put the parcel to a different use than originally intended.
- ~~(v)~~(w) "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 the final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- ~~(w)~~(x) "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).
- ~~(x)~~(y) "Flood or flooding or flood water" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters;
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows);
 - (3) Any other condition resulting from flood-related erosion.
- ~~(y)~~(z) "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 hazard and the floodway.
- ~~(z)~~(aa) "Flood control project" means a dam or barrier design and constructed to keep water away from or out of a specified area, including but not limited to levees, floodwalls, and channelization.
- ~~(aa)~~(bb) "Flood damage-resistant materials" means any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.
- (cc) "Flood hazard area" means the greater of the following two areas:
- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

- ~~(bb)~~(dd) "Flood hazard boundary map [FHBM]" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.
- ~~(ee)~~(ee) "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.
- ~~(dd)~~(ff) "Flood insurance study [FIS]" means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the flood boundary and floodway map, and the water surface elevation of the base flood.
- ~~(ee)~~(gg) "Floodplain or flood-prone area" means any land areas susceptible to being inundated by water from any source (see definition of "flooding").
- ~~(ff)~~(hh) "Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations. The city engineer is hereby appointed to be the floodplain administrator.
- ~~(gg)~~(ii) "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.
- ~~(hh)~~(jj) "Floodplain management regulations" means the ordinance codified in this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control ordinances) and other applications of police power which control development in flood-prone areas. The term describes such federal, state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- ~~(ii)~~(kk) "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. Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 or most recent updates for guidelines on dry and wet floodproofing.)
- ~~(jj)~~(ll) "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. Also referred to as "regulatory floodway."
- ~~(kk)~~(mm) "Floodway fringe" means that area of the one-hundred-year floodplain shown on the FEMA floodway maps that could be completely obstructed without increasing the water surface elevation of the one-hundred-year flood more than one foot at any point.

(nn) "Fraud or victimization" means, for the purpose of variances from these regulations or the building code, the intentional use of deceit to deprive another of rights or property, making a victim of the deprived person or the public. As it pertains to buildings granted variances to be constructed below the elevation required by the building code, future owners or tenants of such buildings and the community as a whole may bear the burden of increased risk of damage from floods, increased cost of flood insurance, and increased recovery costs, inconvenience, danger, and suffering.

~~(H)~~(oo) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

~~(nn)~~(qq) "Historic structure" means any structure that is either:

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

~~(oo)~~(rr) "Letter of Map Change (LOMC)" means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (3) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is,

therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

- (4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

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

~~(qq)~~(tt) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

~~(rr)~~(uu) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). (See "Basement" definition).

- (1) An unfinished or flood resistant enclosure below the lowest floor, 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 it conforms to applicable non-elevation design requirements including, but not limited to:
- a. The wet floodproofing standard in Section ~~9-55.1(e)(3)~~9-06.34(c)(3);
 - b. The anchoring standards in Section ~~9-55.1(a)~~9-06.34(a);
 - c. The construction materials and methods standards in Section ~~9-55.1(b)~~9-06.34(b); and
 - d. The standards for utilities in Section ~~9-55.29~~06.36.
- (2) For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

~~(ss)~~(vv) "Manufactured home" means a structure that is factory-fabricated, built 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, and which complies with requirements adopted by the State of California Department of Housing and Community Development. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. The term "manufactured home" does not include a "recreation vehicle."

~~(tt)~~(ww) "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.

~~(uu)~~(xx) "Market value" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. 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. 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.

~~(vv)~~(yy) "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

~~(ww)~~(zz) "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 city, and includes any subsequent improvements to such structures.

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

(bbb) "Nuisance" means that which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

~~(yy)~~(ccc) "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.

~~(zz)~~(ddd) "One-hundred-year flood" or "100-year flood" means a flood which has a one percent annual probability of being equaled or exceeded. It is identical to the "base flood," which will be the term used throughout this article.

~~(aaa)~~(eee) "Permit for floodplain development" means an official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specified development activities that are located in flood hazard areas and that are determined to be compliant with these regulations.

- ~~(bbb)~~ (fff) "Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.
- ~~(eee)~~ (ggg) "Recreation vehicle." See Section 37-50.190 of the Salinas City Code.
- ~~(ddd)~~ (hhh) "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.
- ~~(eee)~~ (iii) "Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the article or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.
- ~~(fff)~~ (jjj) "Riverine" means relating to, formed by, or resembling a river (including tributaries, stream, brook, etc.).
- ~~(ggg)~~ (kkk) "Special flood hazard area (SFHA)" means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1—30, AE, A99 or AH.
- ~~(hhh)~~ (lll) "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 was within one hundred eighty 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.
- ~~(iii)~~ (mmm) "Structure" means anything constructed or erected on the ground or which is attached to something erected on the ground, including a manufactured home.
- ~~(jjj)~~ (nnn) "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 fifty percent of the market value of the structure before the damage occurred.
- ~~(kkk)~~ (ooo) "Substantial improvement" means any repair, reconstruction, rehabilitation, addition, or other proposed new development of a structure, or improvement of a structure, the cost of which equals or exceeds fifty percent of the

market value of the structure before "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 the 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 an "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

~~(HH)~~(ppp) "Utility and Miscellaneous Group U" means buildings and structures of an accessory character and miscellaneous structure not classified in any special occupancy, as described in the building code.

~~(mmm)~~(qqq) "Variance" means a grant of relief from the requirements of this article which permits construction in a manner that would otherwise be prohibited by this article.

~~(nnn)~~(rrr) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

~~(ooo)~~(sss) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

~~(ppp)~~(ttt) "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.

Sec. ~~9-53.1~~9-06.07. Lands to which this article applies.

This article shall apply to all areas of special flood hazards within the jurisdiction of the City of Salinas.

Sec. ~~9-53.2~~9-06.08. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the flood insurance study (FIS) in a scientific and engineering report entitled "The Flood Insurance Study for the City of Salinas," dated May 4, 1981, and accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), dated November 4, 1981, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this article. The flood insurance study (FIS) is on file at the Salinas Permit Center, 65 West Alisal Street, Engineering and Transportation Department. This FIS and attendant mapping are the minimum area of

applicability of this article and may be supplemented by studies for other areas which allow implementation of this article and which are recommended to the city council by the floodplain administrator.

Sec. 9-53.3.9-06.09. Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this article and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Alternatively, and in the discretion of the city attorney, any violation of the requirements set forth in this article may be prosecuted administratively pursuant to the provisions of the City Code. Nothing herein shall prevent the city from taking such legal action available to it under the law as may be necessary to prevent or remedy any violation.

Sec. 9-06.10. Other laws.

The provisions of these regulations shall not be deemed to nullify any provisions of local, State or federal law.

Sec. 9-53.4.9-06.11. Abrogation and greater restrictions.

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

Sec. 9-53.5.9-06.12. Interpretation.

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

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 9-53.6.9-06.13. Warning and disclaimer of liability.

The degree of flood protection required by this article 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 man-made or natural causes. This article 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 article shall not create liability on the part of the city, any officer or employee thereof, the state of California, the Federal Insurance Administration, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

Sec. 9-53.7.9-06.14. Severability.

This article and the various parts thereof are hereby declared to be severable. Should any section of this article be declared by the courts to be unconstitutional or invalid, such decision

shall not affect the validity of the article as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

Sec. 9-06.15. General applicability.

These regulations, in conjunction with the building codes, provide minimum requirements for development located in flood hazard areas, including the subdivision of land; filling, grading and other site improvements; installation of utilities; installation, placement and replacement of manufactured homes; placement of recreational vehicles; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; certain building work exempt from permit under the building codes; and flood control projects.

Division II. Administration.

Sec. 9-54.1,9-06.16. Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section ~~9-53.2.9-06.08~~ Application for a development permit shall be made on forms furnished by the floodplain administrator, and may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (a) Site plan, including but not limited to:
 - (1) For all proposed structures, spot ground elevations at building corners and twenty-foot or smaller intervals along the foundation footprint, or one-foot contour elevations throughout the building site; and
 - (2) Proposed locations of water supply, sanitary sewer, and utilities; and
 - (3) If available, the base flood elevation from the flood insurance study and/or flood insurance rate map; and
 - (4) If applicable, the location of the regulatory floodway.
- (b) Foundation design detail, including but not limited to:
 - (1) Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (2) For a crawl-space foundation, location and total net area of foundation openings as required in Section ~~9-55.1(e)(3)9-06.34(c)(3)~~ of this article and FEMA Technical Bulletin TB 1-93 and 7-93 or most recent updates; and
 - (3) For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to ninety-five percent using the Standard Proctor Test method); and

- (c) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section ~~9-55.1(e)(2)~~9-06.34(c)(2) of this article and FEMA Technical Bulletin TB 3-93 or most recent update; and
- (d) All appropriate certifications listed in Section ~~9-54.3(d)~~9-06.19(d) of this article; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Sec. ~~9-54.2~~9-06.17. Designation of the city engineer as local floodplain administrator.

The city engineer is hereby appointed to administer, implement, and enforce this article by granting or denying development permits in accord with its provisions, and shall be the floodplain administrator for the purpose of this article. The responsibilities hereunder may be delegated from time-to-time by the city engineer to one or more designees.

Sec. ~~9-54.3~~9-06.18. Coordination of the floodplain administrator with the building official.

The floodplain administrator shall coordinate with and provide comments to the building official to administer and enforce the flood provisions of the building code and to ensure compliance with the applicable provisions of these regulations. The floodplain administrator and the building official have the authority to establish written procedures for reviewing applications and conducting inspections for buildings and for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section ~~9-54.5~~9-06.20 of these regulations.

Sec. ~~9-54.4~~9-06.19. 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.
 - (1) Review all development permits to determine that the permit requirements of this article have been satisfied and that all other required state and federal permits have been obtained;
 - (2) Ensure that the site is reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage;
 - (3) Ensure 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 article, "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.
 - (4) Review, in coordination with the Building Official, required design certifications and documentation of elevations specified by the building code to determine that such certifications and documentations are complete.
 - (5) Review applications and plans for modification of any existing development in flood hazard areas for compliance with these regulations.

- (6) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
 - (7) Determine whether additional flood hazard data shall be obtained from other sources or developed by the applicant.
 - (8) Coordinate with the Building Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
 - (9) Prepare comments and recommendations for consideration when applicants seek variances for development other than buildings in accordance with Section ~~9-56-49-06.59~~ of these regulations
 - (10) Review all permit applications and plans to determine whether proposed development is located in flood hazard areas.
 - (11) Complete the appropriate section of the Department of Housing and Community Development Floodplain Ordinance Compliance Certification for Manufactured Home/Mobil home Installations when submitted by applicants.
 - (12) Review requests submitted to the Building Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the building code, to determine whether such requests require consideration as a variance pursuant to Sections 9-06.55 through 9-06.59 of these regulations.
 - (13) Require applicants who propose alteration of a watercourse to notify adjacent communities and the NFIP State Coordinating Agency, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
 - (14) Inspect development in accordance with Section 9-06.51 of these regulations and inspect flood hazard areas to determine when development is undertaken without issuance of permits.
- (b) Use of Other Base Flood Data.
- (1) When base flood elevation data has not been provided in accordance with Section ~~9-53.29-06.08~~, 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, in order to administer Section ~~9-55.1.9-06.34~~ Any such information shall be submitted to the city for adoption; or
 - (2) If no base flood elevation data is available from a federal or state agency or other source, then a base flood elevation shall be obtained using one of two methods from the FEMA publication "Managing Floodplain Development in Approximate Zone A Areas—A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995 in order to administer Section ~~9-55.19-06.34~~:
 - (A) Simplified Method.
 - (i) 100-year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge-drainage area method; and

- (ii) Base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or
- (B) Detailed Method.
 - (i) 100-year or base flood discharge shall be obtained using the U.S. Army Corps of Engineers' HEC-HMS computer program; and
 - (ii) Base flood elevation shall be obtained using the U.S. Army Corps of Engineers' HEC-RAS computer program.
- (c) Notification of Other Agencies. 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;
 - (2) Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and
 - (3) Require that the flood carrying capacity within the altered or relocated portion of such watercourse is maintained.
- (d) Whenever a base flood elevation changes due to physical alterations:
 - (1) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps (FIRMs) when the analyses indicate changes in base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available
 - (2) When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a qualified CA Licensed Civil Engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant. Provided FEMA issues a Conditional Letter of Map Revision (CLOMR), construction of proposed flood control projects and land preparation for development are permitted, including clearing, excavation, grading, and filling. Permits for construction of buildings shall not be issued until the applicant satisfies the FEMA requirements for issuance of a Letter of Map Revision (LOMR).
 - (3) In addition to applicable Federal, State and other local permits, a permit for floodplain development is required for construction of flood control projects. The purpose for the permit is to examine the impact on flood hazard areas, floodways, and base flood elevations shown on the FIRM. Unless otherwise authorized by separate regulations, issuance of this permit does not address the sufficiency of the structural elements of the proposed flood control project. Permits for floodplain development and building permits in areas affected by proposed flood

control projects shall not be issued based on Conditional Letters of Map Revision issued by FEMA.

- (4) Applications for permits for flood control projects shall include documentation including but not limited to:
 - (A) Site plan or document showing the existing topography and the boundaries of the flood hazard areas, floodway boundaries, and base flood elevations shown on the FIRM.
 - (B) Site plan or document showing the proposed topography and the proposed changes to the boundaries of the flood hazard areas, floodway boundaries, and base flood elevations.
 - (C) The documentation submitted to FEMA for a Conditional Letter of Map Revision (CLOMR). Submittal requirements and processing fees shall be the responsibility of the applicant. A CLOMR is required when a proposed flood control project alters a floodway and increases base flood elevations more than greater than 0.00 feet, or alters a watercourse a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated and increases base flood elevations more than 1.0 foot.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

- (e) Whenever there are changes in corporate boundaries:
 - (1) Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.
- (f) Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed:
 - (1) Certification required by Section ~~9-55.1(e)(1)~~9-06.34(c)(1) and ~~9-55.4(b)~~9-06.48(b) (lowest floor elevations);
 - (2) Certification required by Section ~~9-55.1(e)(2)~~9-06.34(c)(2) (elevation or floodproofing of nonresidential structures);
 - (3) Certification required by Section ~~9-55.1(e)(3)~~9-06.34(c)(3) (wet floodproofing standard);
 - (4) Certification of elevation required by Section ~~9-55.3(b)~~9-06.38(b) (subdivision standards);
 - (5) Certification required by Section ~~9-55.5(a)~~9-06.49(a) (floodway encroachments).
- (g) Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area.

The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section ~~9-56.19-06.55~~ et seq.

- (h) Remedial Action. Take action to remedy violations of this article as specified in Section ~~9-53.39-06.09~~.

Sec. ~~9-54.5-9-06.20~~. Substantial improvement and substantial damage determinations.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (b) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, when applicable, to the market value of the building or structure.
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
- (d) Notify the applicant when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage.

Sec. ~~9-54.6-9-06.21~~. Department records.

In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the floodplain administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the building codes, including Flood Insurance Studies and Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the building codes and these regulations; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the building codes.

Sec. 9-54.7.9-06.22. Appeals.

The city council of the City of Salinas 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 article.

Division IIA. Permits for Floodplain Development.

Sec. 9-06.23. Permit required.

Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit for floodplain development. No permit shall be issued until compliance with the requirements of these regulations and all other applicable codes and regulations has been satisfied. No building permit shall be issued based on Conditional Letters of Map Revision issued by FEMA. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine a permit for floodplain development is required in addition to a building permit.

Sec. 9-06.24. Application for permit.

The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. The information provided shall:

- (a) Identify and describe the development to be covered by the permit.
- (b) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitely locate the site.
- (c) Indicate the use and occupancy for which the proposed development is intended.
- (d) Be accompanied by a site plan and construction documents as specified in Article 105 of these regulations, including grading, excavation and filling plans and other information deemed appropriate by the Floodplain Administrator.
- (e) State the valuation of the proposed work.
- (f) Be signed by the applicant or the applicant's authorized agent.
- (g) Include such other data and information required by the Floodplain Administrator to demonstrate compliance with these regulations.

Sec. 9-06.25. Validity of permit.

The issuance of a permit for floodplain development under these regulations or the building codes shall not be construed to be a permit for, or approval of, any violation of these regulations, the building code, or any other ordinance of the community. The issuance of a permit for floodplain development based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations.

Sec. 9-06.26. Other permits required.

The applicant shall obtain all other required state and federal permits prior to initiating work authorized by these regulations and shall provide documentation of such permits to the

Floodplain Administrator. Such permits include but are not limited to the California State Water Resources Control Board for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

Sec. 9-06.27. Expiration.

A permit for floodplain development shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each unless FEMA has issued notification of revision to the Flood Insurance Rate Study and Flood Insurance Rate Maps that alter the flood hazard area or floodway boundaries, flood zones, or base flood elevations, in which case the permit is invalid.

Sec. 9-06.28. Suspension or revocation.

The Floodplain Administrator is authorized to suspend or revoke a permit for floodplain development issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of these regulations or any ordinance or code of this community.

Sec. 9-06.29. Appeals of decisions.

When it is alleged there is an error in any decision or determination made by the Floodplain Administrator in the interpretation or enforcement of these regulations, such decision or determination may be appealed to the City Council by filing a written appeal setting forth the reasons of the appeal.

Division III. Flood Hazard Reduction.

Sec. 9-06.30. Information for development in flood hazard areas.

The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (a) Delineation of flood hazard areas; floodway boundaries and flood zone(s); base flood elevation(s); ground elevations; proposed filling, grading, and excavation; and drainage patterns and facilities when necessary for review of the proposed development.
- (b) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 9-06.31 or Section 9-06.32 of these regulations.
- (c) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 9-06.31(b) of these regulations.

- (d) Location of the proposed activity and proposed structures; locations of water supply, sanitary sewer, and other utilities; and locations of existing buildings and structures.
- (e) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (f) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (g) Existing and proposed alignment of any proposed alteration of a watercourse.

Sec. 9-06.31. Information in flood hazard areas without base flood elevations (approximate Zone A).

Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator is authorized to:

- (a) Require the applicant to include base flood elevation data prepared by a qualified CA Licensed Civil Engineer in accordance with currently accepted engineering practices. Such analyses shall be performed and sealed by a qualified CA Licensed Civil Engineer. Studies, analyses and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The accuracy of data submitted for such determination shall be the responsibility of the applicant.
- (b) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
- (c) Where base flood elevation and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
 - (1) Require the applicant to include base flood elevation data in accordance with Section 9-06.31(a) of these regulations; or
 - (2) Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
- (d) Where the base flood elevation data are to be used to support a request for a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a qualified CA Licensed Civil Engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

Sec. 9-06.32. Additional analyses and certifications.

As applicable to the location and nature of the proposed development activity, and in addition to the requirements of these regulations, the applicant shall have the following analyses signed and sealed by a qualified CA Licensed Civil Engineer for submission with the site plan and construction documents:

- (a) For development activities proposed to be located in a floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 9-06.19(d)(2) of these regulations and shall submit the Conditional Letter of Map Revision, when issued by FEMA, with the site plan and construction documents.
- (b) For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the Flood Insurance Study or on the FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than 0.00 feet at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (c) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices that demonstrates the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 9-06.19(d)(2) of these regulations. The applicant shall notify the chief executive officer of adjacent communities and the California Department of Water Resources. The Floodplain Administrator shall maintain a copy of the notification in the permit records and shall submit a copy to FEMA.

Sec. 9-06.33. Requirements for buildings and structures in flood hazard areas.

Applications for building and structures within the scope of the building code that are proposed in flood hazard areas shall comply with the applicable requirements of the building code.

Sec. 9-55.1, 9-06.34. Standards of construction.

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

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

- (2) All manufactured homes shall meet the anchoring standards of Section ~~9-55.49-~~06.48.
- (b) Construction Materials and Methods.
- (1) All new construction and substantial improvements shall be constructed with flood-resistant materials as specified in FEMA Technical Bulletin TB 2-93 or the most recent update, and utility equipment resistant to flood damage;
 - (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;
 - (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (4) Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- (c) Elevation and Floodproofing.
- (1) Residential construction, new construction or substantial improvement of any structure shall have the lowest floor, including basement, elevated as follows:
 - (A) In an AO Zone, elevated above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by two feet, or elevated at least two feet above the highest adjacent grade if no depth number is specified;
 - (B) In an A Zone, elevated two feet (minimum) above the base flood elevation; such base flood elevation shall be determined by methods in Section ~~9-54.3(b)~~9-06.19(b) of this article.
 - (C) In all other zones, elevated two feet (minimum) above the base flood elevation.

Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the building official to be properly elevated. Such certification and verification shall be provided to the floodplain administrator both prior to pouring the foundation and immediately after such foundation pour.

- (2) Nonresidential construction, new or substantial improvement, shall either be elevated to conform to Section ~~9-55.1(e)(1) or (2)~~9-06.34(c)(1) or (2) together with attendant utility and sanitary facilities:
 - (A) Be floodproofed below the elevation recommended under Section ~~9-55.1(e)(1)~~9-06.34(c)(1) so that the structure 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) Be certified by a registered professional engineer or architect that the standards of this Section ~~9-55.1(e)(2)~~9-06.34(c)(2) are satisfied. Such certification shall be provided to the floodplain administrator.
- (3) All new construction and substantial improvements 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 shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB 7-93 or most recent update, and must meet or exceed the following minimum criteria:
- (A) Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or
- (B) Be certified by a registered professional engineer or architect, to comply with the local floodproofing standards approved by the Federal Insurance Administration.
- (4) Manufactured homes shall also meet the standards in Section ~~9-55.49~~9-06.48.
- (5) All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the building code, shall:
- (A) Be located and constructed to minimize flood damage.
- (B) Meet the limitations of Section 9-06.39 of these regulations when located in a regulated floodway.
- (C) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (D) Be constructed of flood damage-resistant materials.
- (E) Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of the building code for wet locations.

Sec. 9-06.35. Detached garages and accessory storage structures.

Detached garages and accessory storage structures used only for parking or storage are permitted below the base flood elevation provided the garages and accessory storage structures:

- (1) Are one story and not larger than 600 square feet in area when located in special flood hazard areas.
- (2) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
- (3) Have flood openings in accordance with the building code.
- (4) Have flood damage-resistant materials used below the base flood elevation.
- (5) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation.

Sec. 9-55.2,9-06.36. 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.
- (c) Sanitary sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.
- (d) Water supply facilities. All new and replaced water supply facilities shall be designed in accordance with the provisions of Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwaters into the systems.
- (e) Electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated to two feet above the base flood level, with the exception of those that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the design flood elevation.

Sec. 9-06.37. Utility and Miscellaneous Group U.

Utility and miscellaneous Group U includes buildings that are accessory in character and miscellaneous structures not classified in any specific occupancy in the building code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), greenhouses, livestock shelters, private garages, retaining walls, sheds, stables, and towers. In addition to the building code requirements for fire and life safety, the following shall apply to utility and miscellaneous Group U buildings and structures in flood hazard areas:

- (1) New construction and substantial improvement of such buildings and structures shall be anchored to prevent flotation, collapse or lateral movement resulting from

flood loads, including the effects of buoyancy, during conditions of the design flood.

- (2) New construction and substantial improvement of such buildings and structures, when fully enclosed by walls, shall be elevated such that the lowest floor, including basement, is elevated to or above the design flood elevation in accordance with ASCE 24 or shall be dry floodproofed in accordance with ASCE 24.
- (3) Unless dry floodproofed, fully enclosed areas below the design flood elevation shall be constructed in accordance with ASCE 24 and limited to parking, storage, and building access.
- (4) When fully enclosed by walls, flood openings shall be installed in accordance with ASCE 24.
- (5) Flood damage-resistant materials shall be used below the design flood elevation.
- (6) Mechanical, plumbing and electrical systems, including plumbing fixtures, shall be located or installed in accordance with ASCE 24.

Sec. 9-55.3.9-06.38. Standards for subdivisions and other proposed development.

- (a) All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is the lesser, shall:
 - (1) Identify the special flood hazard areas (SFHA) and base flood elevations (BFE).
 - (2) Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 - (3) If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a letter of map revision based on fill (LOMR-F) to the floodplain administrator:
 - (A) Lowest floor elevation.
 - (B) Pad elevation.
 - (C) Lowest adjacent grade.
 - (4) When, as part of a proposed subdivision, fill will be placed to support buildings, the fill shall be placed in accordance with the building code and approval of the subdivision shall require submission of as-built elevations for each filled pad certified by a licensed land surveyor or registered civil engineer.
 - (5) Where base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 9-06.31(a) of these regulations.
 - (6) The flood hazard area, including floodways, as appropriate, shall be delineated on preliminary subdivision plats.
- (b) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (c) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage in accordance with Sec.9-06.36(c) and Sec. 9-06.36(d) of these regulations, as applicable, and appropriate codes.
- (d) All subdivision proposals shall provide adequate drainage to reduce exposure to flood hazards; in Zone AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from proposed structures.

Sec. 9-06.39. Development in floodways.

Development, site improvements and land disturbing activity involving fill or regrading shall not be authorized in the floodway unless the floodway encroachment analysis required in Section 9-06.32(a) of these regulations demonstrates the proposed work will not result in any increase in the base flood level during occurrence of the base flood discharge.

Sec. 9-06.40. Limitations on placement of fill.

Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures, fill shall comply with the requirements of the building code. The placement of fill intended to change base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs shall be subject to the requirements of Section 9-06.19(d)(2) of these regulations.

Sec. 9-06.41. Tanks.

Tanks that serve buildings shall comply with the requirements of the building code. Underground and above-ground tanks that serve other purposes shall be designed, constructed, installed and anchored in accordance with ASCE 24.

Sec. 9-06.42. Requirements for temporary structures and temporary storage in flood hazard areas.

Temporary structures shall be erected for a period of less than 180 days and temporary storage of goods and materials shall be permitted for a period of less than 180 days. Extensions may be granted in accordance with Section 9-06.27 of these regulations. In addition, the following apply:

- (1) Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.
- (2) Temporary stored materials shall not include hazardous materials.
- (3) The requirements of Section 9-06.48 of these regulations, when located in floodways.

Sec. 9-06.43. Fences in floodways.

Fences in floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 9-06.48 of these regulations.

Sec. 9-06.44. Oil derricks.

Oil derricks located in flood hazard areas shall be designed in conformance with flood loads required by the building code.

Sec. 9-06.45. Retaining walls, sidewalks and driveways in floodways.

Retaining walls and sidewalks and driveways that involve placement of fill in floodways shall meet the limitations of Section 9-06.48 of these regulations and the requirements for site grading in Chapter 18 of the building code.

Sec. 9-06.46. Roads and watercourse crossing in floodways.

Roads and watercourse crossings that encroach into floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side shall meet the limitations of Section 9-06.48 of these regulations. Alteration of a watercourse that is part of work proposed for a road or watercourse crossing shall meet the requirements of Section 9-06.32(c) of these regulations.

Sec. 9-06.47. Swimming pools.

Above-ground swimming pools, on-ground swimming pools, and in-ground swimming pools that involve placement of fill in floodways shall meet the requirement of Section 9-06.48 of these regulations.

Sec. ~~9-55.4~~9-06.48. Standards for manufactured homes.

- (a) All new and replacement manufactured homes and additions to manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's flood insurance rate map, 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 on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two feet (minimum) 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 A1-30, AH, and AE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection

- (a) of this section will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either:
- (1) The lowest floor of the manufactured home is elevated two feet (minimum) above the base flood elevation; or
 - (2) The bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade.
- (c) Fully enclosed areas below elevated manufactured homes shall comply with the enclosed area requirements of Section R322 of the residential code (CCR Title 24 Part 2.5).
- (d) All new and replacement manufactured homes, including substantial improvement of manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of Section R322.2 of the residential code (CCR Title 24 Part 2.5) and these regulations. Foundations for manufactured homes subject to Section 9-55.4(b) of these regulations are permitted to be reinforced piers or other foundation elements of at least equivalent strength.
- (e) Materials below elevated manufactured homes shall comply with the flood-damage resistant materials requirements of Section R322 of the residential code (CCR Title 24 Part 2.5).
- (f) Mechanical equipment and outside appliances shall be elevated to or above the lowest floor or bottom of the lowest horizontal structural member of the manufactured home, as applicable to the flood hazard area.
- ~~(d)~~(g) All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to the Business and Professions Code and shall comply with the requirements of the Department of Housing and Community Development (HCD) and the requirements of these regulations. In addition to permits pursuant to these regulations, permits from the HCD are required where the HCD is the enforcement agency for installation of manufactured homes. Upon completion of installation and prior to the final inspection by the Floodplain Administrator, the installer shall submit certification of the elevation of the manufactured home, prepared by a licensed land surveyor or registered civil engineer, to the Floodplain Administrator.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

Sec. ~~9-55.5~~9-06.49. Floodways.

Located within areas of special flood hazard (established in Section ~~9-53.29-06.08~~) are areas designated as floodways. Since a 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) All encroachments are prohibited, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in

any increase in the base flood elevation during the occurrence of the base flood discharge, and a CLOMR is issued by the Federal Emergency Management Agency.

- (b) If subsection (a) of this section is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of this division.

Sec. ~~9-55.6~~9-06.50. Standards for recreational vehicles.

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's flood insurance rate map will either:

- (a) Meet the permit requirements of Section ~~9-54.19-06.16~~ through ~~9-54.39-06.18~~ of this article and the elevation and anchoring requirements for manufactured homes in Section ~~9-55.4(a)~~9-06.48(a); or
- (b) Be on the site for fewer than one hundred eighty consecutive days, and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Sec. ~~9-55.7~~9-06.51. Inspections.

- (a) Inspections, in general. Development for which a permit for floodplain development is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.
- (b) Inspections of development other than buildings and structures. The floodplain administrator shall make or cause to be made, inspections of all development other than buildings and structures that is authorized by issuance of a permit for floodplain development under these regulations. The floodplain administrator shall inspect flood hazard areas from time to time to determine when development is undertaken without issuance of a permit.
- (c) Inspections of manufactured homes installations. The floodplain administrator shall make or cause to be made, inspections of installation and replacement of manufactured homes in flood hazard areas authorized by issuance of a permit for floodplain development under these regulations. Upon installation of a manufactured home and receipt of the elevation certification required in Section ~~9-55.4(d)~~9-06.48(g) of these regulations the floodplain administrator shall inspect the installation or have the installation inspected.
- (d) Buildings and structures. The building official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit, in accordance with the building code:
 - (1) Lowest floor elevation. Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in the building code shall be prepared by a CA Licensed Land Surveyor or Civil Engineer and submitted to the building official.

- (2) Final inspection. Prior to the final inspection, certification of the elevation required in the building code shall be prepared by a CA Licensed Land Surveyor or Civil Engineer and submitted to the building official.

Sec. 9-06.52. Violations.

Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of the elevation of the lowest floor, other required design certifications, or other evidence of compliance required by these regulations or the building code, is presumed to be a violation until such time as required documentation is submitted. Violation of the requirements shall constitute a misdemeanor.

Sec. 9-06.53. Authority.

The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the building codes but is regulated by these regulations and that is determined to be a violation.

Sec. 9-06.54. Unlawful continuance.

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law

Division IV. Appeal—Variance Procedure.

Sec. 9-56.1, 9-06.55. Appeal process—Definitions.

- (a) "Fraud and victimization" means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevations are subjected during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage that can be insured only at very high flood insurance rates.
- (b) "Hardship" means the exceptional hardship that would result from a failure to grant the requested variance. The city requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences or disapproval of one's neighbors likewise does not qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

- (c) "Public safety and nuisance" means that the granting of a variance must not result in anything which is injurious to safety or health of the surrounding community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Sec. ~~9-56.2~~9-06.56. Nature of variances.

The variance criteria set forth in this section of this article 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 article would create an exceptional hardship to the applicant or the surrounding property owners. 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.

It is the duty of the city 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 the flood ordinance will be quite rare. Therefore, the variance guidelines provided in this article are more detailed and contain multiple provisions that must be met before a variance can be properly considered or granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

Sec. 9-06.57. Limitations on authority.

The City Council shall base its determination on technical justifications submitted by applicants, the considerations and conditions set forth in this article, the comments and recommendations of the Floodplain Administrator and Building Official, as applicable, and has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations and the building code.

Sec. ~~9-56.3~~9-06.58. Appeal board.

- (a) The appeals board shall hear and decide appeals and requests for variances from the requirements of this article.
- (b) The board of appeals 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 article.
- (c) In passing upon such applications, the board of appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger of life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;

- (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (11) The 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) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
- (1) 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 twenty-five dollars for one hundred dollars of insurance coverage; and
 - (2) Such construction below the base flood level 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 Monterey recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (e) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided [subsections] (1) through (11) in subsection (c) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (f) Upon consideration of the factors of subsection (c) of this section and the purposes of this article, the board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (g) The floodplain administrator shall maintain a record of all appeal actions, variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

Sec. ~~9-56.4~~9-06.59. Conditions for variances.

- (a) Generally, 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, providing that the procedures of Sections ~~9-54 and 9-55~~ 9-06.16 and 9-06.54 of

this article have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

- (b) Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section ~~9-52.1(ee)~~9-06.06(qq)) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. When the proposed work precludes the structure's continued designation as a historic building, a variance shall not be granted and the structure and any repair, improvement, and rehabilitation shall be subject to the requirements of the building code.
- (c) Variances shall not be issued within any mapped regulatory floodway if any significant increase in flood levels during the base flood discharge would result.
- (d) Variances shall only be issued upon a determination 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 article. For example, in the case of variances to an elevation requirement, this means the city need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city believes will both provide relief and preserve the integrity of the local ordinance.
- (e) 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" (as defined in Section ~~9-56.1(b)~~9-06.55(b)) 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 a nuisance (as defined in Section ~~9-56.1(e)~~9-06.55(c), cause fraud or victimization of the public (as defined in Section ~~9-56.1(a)~~9-06.55(a)), or conflict with existing local laws or ordinances.
 - (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (f) Variances may be issued for new construction, substantial improvements, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (a) through (e) of this section are satisfied, that the structure or other development is protected by methods that minimize flood damage during the base flood and provided the variance does not create a public nuisance or any additional threats to public safety.
- (g) Upon consideration of the factors of Section ~~9-56.4(e)~~9-06.59(e) and the purposes of this article, the city may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- (i) A variance is to be issued for the construction or substantial improvement of agricultural structures that are not elevated or dry floodproofed, provided the requirements of this section are satisfied and:
 - (1) A determination has been made that the proposed agricultural structure:
 - (A) Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
 - (B) Has low damage potential.
 - (C) Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effect of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of high volatile, toxic, or water-reactive materials.
 - (D) Complies with the wet floodproofing construction requirements of Section ~~9-56.4(i)(2)~~9-06.59(i)(2), below.
 - (2) Wet floodproofing construction requirements.
 - (A) Anchored to resist flotation, collapse, and lateral movement.
 - (B) When enclosed by walls, walls have flood openings that comply with the flood opening requirements of ASCE 24, Chapter 2.
 - (C) Flood damage-resistant materials are used below the base flood elevation.
 - (D) Mechanical, electrical, and utility equipment are elevated above the base flood elevation.

SECTION 3. CEQA CONSIDERATIONS. Not a Project. The City of Salinas has determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA) (CEQA Guidelines Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Salinas City Council hereby declares that it would have passed this ordinance, and

each and every section, subsection, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect and be in force thirty days from and after its adoption.

PASSED AND ADOPTED this 22nd day of August 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Kimbley Craig, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney

