

**ORDINANCE CODE PART VII, CHAPTER 27**  
**FLOOD DAMAGE PREVENTION**

(formerly Chapter 8; added by Ord. No. 2726, effective 9-29-86)

**ARTICLE 1. GENERAL PROVISIONS**

**STATEMENT  
OF PURPOSE**

**SECTION 7-27-1000** (formerly Section 7800). It is the purpose of this Chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (a) To protect human life and health;
- (b) To minimize the need for rescue and relief efforts associated with flooding;
- (c) To minimize potential property losses in special flood hazard areas;
- (d) To minimize damage to public facilities and utilities located in areas of special flood hazard.
- (e) To insure that potential buyers are notified that property is in an area of special flood hazard; and
- (f) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**STATUTORY  
AUTHORIZA-  
TIONS**

**SECTION 7-27-1001** (Added by Ord. No. 3212, effective 10-29-98). The Legislature of the State of California has, in Government Code Sections 65302, 65560, and 65800, conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of the County of Tulare does hereby adopt the floodplain management regulations set forth in this Chapter.

**FINDINGS  
OF FACT**

**SECTION 7-27-1002** (Added by Ord. No. 3212, effective 10-29-98). The flood hazard areas of the County of Tulare 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. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards, which

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increase flood heights and velocities, also contribute to the flood loss.

## **METHODS OF REDUCING FLOOD LOSSES**

**SECTION 7-27-1005** (formerly Section 7801). In order to accomplish its purposes, this Chapter 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 flood plains, 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.

## **DEFINITIONS**

**SECTION 7-27-1010** (Amended by Ord. No. 3425, effective 6/10/11.) Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application.

### **Accessory Use**

“ACCESSORY USE” means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located. (Added by Ord. No. 3212, effective 10-29-98).

### **Alluvial Fan**

"ALLUVIAL FAN" is an area subject to flooding when the flood plain is comprised of low flow channels where sediment accompanies the shallow flooding and the unstable soils scour and erode during a flooding event.

### **Appeal**

“APPEAL” means a request for a review of the Floodplain Administrator’s interpretation of any provision of this Chapter. (Added by Ord. No. 3212, effective 10-29-98).

### **Area of Shallow Flooding**

"AREA OF SHALLOW FLOODING" is a designated AO or VO Zone on the Flood Insurance Rate Map. In these zones, the base flood depths range from one to three feet; a clearly defined channel does not exist; the noticeable path of flooding is unpredictable and indeterminate; and,

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noticeable velocity flow may be evident.

<b>Area of Special Flood Hazard</b>	"AREA OF SPECIAL FLOOD HAZARD" has the same meaning as "SPECIAL FLOOD HAZARD AREA." (Amended by Ord. No. 3212, effective 10-29-98).
<b>Base Flood</b>	"BASE FLOOD" is the flood having a one percent (1%) chance of being equaled or exceeded any given year.
<b>Basement</b>	"BASEMENT" means any area of a building having its floor sub grade (below ground level on all sides). (Added by Ord. No. 3212, effective 10-29-98).
<b>Breakaway Walls</b>	"BREAKAWAY 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 so designed as to break away under abnormal flood conditions without 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.
<b>Building</b>	"BUILDING" has the same meaning as "Structure." (Added by Ord. No. 3212, effective 10-29-98).
<b>Building Permit</b>	"BUILDING PERMIT" means a permit issued pursuant to Chapter 4 of Part VII of the Ordinance Code, including a mobilehome installation permit.
<b>Development</b>	"DEVELOPMENT" is any man-made change to improved or unimproved real estate (including filling, grading, paving, excavation or drilling operations) located within the area of special flood hazard.
<b>Encroachment</b>	"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. (Added by Ord. No. 3212, effective 10-29-98).
<b>Existing manufactured home park or subdivision</b>	"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 the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the County. (Added by Ord. No. 3212, effective 10-29-98).

**Existing mobilehome park or mobilehome subdivision** (Deleted by Ord. No. 2812, effective 2-34-88.)

**Expansion to an existing manufactured home park or subdivision** “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). (Added by Ord. No. 3212, effective 10-29-98).

**Flood or Flooding** "FLOOD OR FLOODING" is a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland waters; and/or
- (b) The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Boundary Floodway Map** "FLOOD BOUNDARY FLOODWAY MAP" is the official map on which the Federal Emergency Management Agency has delineated both the areas of flood hazard and the floodways.

**Flood Hazard Boundary Map** “FLOOD HAZARD BOUNDARY MAP” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards. (Added by Ord. No. 3212, effective 10-29-98).

**Flood Insurance Rate Map (FIRM)** "FLOOD INSURANCE RATE MAP (FIRM)" is the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study** "FLOOD INSURANCE STUDY" is the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map (FIRM), the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

**Floodplain Or Flood-Prone Area** “FLOODPLAIN OR FLOOD-PRONE AREA” means any land susceptible to being inundated by water from any source. Also see “Flood” or “Flooding.” (Added by Ord. No. 3212, effective 10-29-98).

**Floodplain Administrator** “FLOODPLAIN ADMINISTRATOR” is the individual or individuals appointed to administer and/or enforce the floodplain management regulations. See Section 7-27-1095. (Added by Ord. No. 3212, effective 10-29-98).

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**Floodplain  
Management**

“FLOODPLAIN MANAGEMENT” means the operation of an overall program of corrective and preventative 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. (Added by Ord. No. 3212, effective 10-29-98).

**Floodplain  
Management  
Regulations**

“FLOODPLAIN MANAGEMENT REGULATIONS” mean this Chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special-purpose ordinances (such as for grading and erosion control), and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage. (Added by Ord. No. 3212, effective 10-29-98).

**Floodproofing**

"FLOODPROOFING" means any combination of structural and non-structural additions, changes or adjustments to non-residential 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 for guidelines on dry and wet flood proofing). (Amended by Ord. No. 3287, effective 6-19-03)

**Flood-Related  
Erosion**

"FLOOD-RELATED EROSION" is a condition that exists in conjunction with a flooding event that alters the composition of the bank of a watercourse and increases the possibility of loss due to the erosion of the land area adjacent to the watercourse.

**Floodway**

"FLOODWAY" means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. The floodway is delineated on the Flood Boundary Floodway Map, on maps adopted by the State Reclamation Board when acting within its jurisdiction, and/or on the County Zoning Map (signified by the F-1, Primary Flood Plain, Zone).

**Floodway  
Fringe**

“FLOODWAY FRINGE” is that area of the floodplain on either side of the “regulatory floodway” where encroachment may be permitted. (Added by Ord. No. 3212, effective 10-29-98).

**Fraud and  
Victimization**

“FRAUD AND VICTIMIZATION,” as related to Section 7-27-1265 of this Chapter pertaining to variances, means that a variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Governing Body will consider the fact that every newly-

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constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years; that buildings that are permitted to be constructed below the base flood elevation are subject during all these 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; and that, in addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates. (Added by Ord. No. 3212, effective 10-29-98).

**Governing Body** “GOVERNING BODY” means the Board of Supervisors of the County of Tulare, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry. (Added by Ord. No. 3212, effective 10-29-98).

**Hardship** “HARDSHIP” as related to Section 7-27-1265 of this Chapter pertaining to variances means the exceptional hardship that would result from a failure to grant the requested variance. The hardship justifying a variance must 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 the disapproval of one’s neighbors likewise cannot, as a rule, 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. (Added by Ord. No. 3212, effective 10-29-98).

**Habitable Floor** "HABITABLE FLOOR" means any floor usable for living purposes, which includes working, sleeping, eating or recreation, or a combination thereof. For flood insurance purposes “Habitable Floor” and “Lowest Floor” will share the same definition.

**Highest Adjacent Grade** "HIGHEST ADJACENT GRADE" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. (Added by Ord. No. 3287, effective 6-19-03)

**Highest Grade** (Deleted by Ord. No. 3212, effective 10-29-98).

**Historic Structure** "HISTORIC STRUCTURE" (Added by Ord. No. 3425, effective 6/10/11.) means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the

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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 Interior; or
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

**Levee**

"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. (Added by Ord. No. 2812, effective 2-4-88.)

**Levee System**

"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 accordance with sound engineering practices. (Added by Ord. No. 2812, effective 2-4-88.)

**Lowest Floor**

“LOWEST FLOOR” (added by Ord. No. 3212, effective 10-29-98) means the lowest floor of the lowest enclosed area, including basement (see definition of “Basement”), as follows:

- (a) An unfinished or flood-resistant enclosure below the lowest floor that is useable 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 no limited to:
  - 1. The wet floodproofing standard in Section 7-27-1180.
  - 2. The anchoring standard in Section 7-27-1170.
  - 3. The construction materials and methods standards in Section 7-27-1175.
  - 4. The standards for utilities in Section 7-27-1200.
- (b) For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see “Basements” definition). This prohibition includes below-grade garages and storage areas.

**Manufactured Home**

“MANUFACTURED HOME” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.” (Added by Ord. No. 3212, effective 10-29-98).

**Manufactured Home Park or Subdivision**

“MANUFACTURED HOME PARK OR SUBDIVISION” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. (Added by Ord. No. 3212, effective 10-29-98).



<b>Market Value</b>	"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 difference. (Added by Ord. No. 3287, effective 6-19-03)
<b>Mean Sea Level</b>	"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. (Added by Ord. No. 3212, effective 10-29-98).
<b>Mobilehome</b>	"MOBILEHOME" is a structure, including a manufactured home certified under the National Mobilehome Construction and Safety Standards Act of 1974, that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers placed on a site for less than 180 consecutive days, or factory-built housing on permanent slab foundation. (Amended by Ord. No. 2812, effective 2-4-88.)
<b>New Construction</b>	"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this chapter, and includes any subsequent improvements to such structures. (Amended by Ord. No. 3425, effective 6-10-11)
<b>New Mobilehome Park or Mobilehome Subdivision</b>	"NEW MANUFACTURED HOME PARK OR SUBDIVISION" (Deleted by Ord. No. 2812, effective 2-4-88; added by Ord. No. 3425, effective 6-10-11) 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 this Chapter.

<b>Obstruction</b>	<p>“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; snare or collect debris carried by the flow of water; or is likely to be carried downstream. (Added by Ord. No. 3212, effective 10-29-98).</p>
<b>One-Hundred-Year Flood or 100-Year Flood</b>	<p>“ONE-HUNDRED-YEAR FLOOD” or “100-YEAR FLOOD” has the same meaning as “Base flood.” (Added by Ord. No. 3212, effective 10-29-98).</p>
<b>Public Safety and Nuisance</b>	<p>“PUBLIC SAFETY AND NUISANCE” as related to Section 7-27-1265 of this Chapter pertaining to variances means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community, neighborhood, or any considerable number of persons; or unlawfully obstructs the free passage, or use in the customary manner, of any navigable lake, river, bay, stream, canal, or basin. (Added by Ord. No. 3212, effective 10-29-98).</p>
<b>Recreational Vehicle</b>	<p>“RECREATIONAL VEHICLE” (added by Ord. No. 3212, effective 10-29-98; amended by Ord. No. 3425, effective 6-10-11) means a vehicle which is:</p> <ul style="list-style-type: none"> <li>(a) Built on a single chassis;</li> <li>(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;</li> <li>(c) Designed to be self-propelled or permanently towable by a light-duty truck; and</li> <li>(d) Designed primarily not for use as a permanent dwelling, but as a temporary living quarters for recreational, camping, travel, or seasonal use.</li> </ul>
<b>Regulatory Floodway</b>	<p>“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. (Added by Ord. No. 3212, effective 10-29-98).</p>
<b>Remedy a Violation</b>	<p>“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</p>

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noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages; implementing the enforcement provisions of this Chapter, or otherwise deterring future similar violations; or reducing State or Federal financial exposure with regard to the structure or other development. (Added by Ord. No. 3212, effective 10-29-98).

**Riverine** “RIVERINE” means related to, formed by, or resembling a river (including tributaries), stream, brook, creek, or other similar watercourse. (Added by Ord. No. 3212, effective 10-29-98).

**Sheet Flow Area** “SHEET FLOW AREA” has the same meaning as “Area of shallow flooding.” (Added by Ord. No. 3212, effective 10-29-98).

**Special Flood Hazard Area** “SPECIAL FLOOD HAZARD AREA” is the land in the flood plain subject to a one percent (1%) or greater chance of flooding in any given year. The area is designated as Zones A, AO, AH, A1-A30, AE, A99, or AH on the FIRM. (Added by Ord. No. 3212, effective 10-29-98; amended by Ord. No. 3425, effective 6-10-11).

**Start of Construction** "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 180 days from the date of the permit. 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 installation of a mobilehome on its permanent site. 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. (Amended by Ord. No. 2812, effective 2-4-88; amended by Ord. No. 3212, effective 10-29-98.)

**Structure** "STRUCTURE" is a walled and roofed building or mobilehome that is principally above ground; this includes a gas or liquid storage tank or a manufactured home. (Amended by Ord. No. 3425, effective 6-10-11.)

**Substantial** “SUBSTANTIAL DAMAGE” means damage of any origin sustained by a

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**Damage** structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Added by Ord. No. 3212, effective 10-29-98).

**Substantial Improvement** "SUBSTANTIAL IMPROVEMENT" (amended by Ord. No. 3212, effective 10-29-98) means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either:

- (a) Before the improvement or repair is started; or
- (b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term does not, however, include either:

- (a) Any project for improvement of a structure to comply with existing state or County health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
- (b) Any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

**Variance** "VARIANCE" means a grant of relief from the requirements of this Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter. (Added by Ord. No. 3212, effective 10-29-98).

**Violation** "VIOLATION" means the failure of a structure or other development to be fully compliant with this Chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter, is presumed to be in violation until such time as that documentation is provided. (Added by Ord. No. 3212, effective 10-29-98).

**Water surface elevation** "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. (Added by Ord. No. 3212, effective 10-29-98).

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<b>Watercourse</b>	“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 flooding may occur. (Added by Ord. No. 3212, effective 10-29-98).
<b>APPLICATION</b>	<b>SECTION 7-27-1015</b> (formerly Section 7803). This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the County of Tulare.
<b>BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD</b>	<b>SECTION 7-27-1020</b> (formerly Section 7804). The areas of special flood hazard identified by the Federal Insurance Administration, through the Federal Emergency Management Agency, in a scientific and engineering report entitled "The Flood Insurance Study for Tulare County, California," dated September 29, 1986, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, dated September 29, 1986, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the County Public Works Department. (Amended by Ord. No. 3212, effective 10-29-98).
<b>COMPLIANCE</b>	<b>SECTION 7-27-1025</b> (formerly Section 7805). No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations.
<b>ABROGATION AND GREATER RESTRICTIONS</b>	<b>SECTION 7-27-1030</b> (formerly Section 7806). This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another chapter, ordinance, easement, covenant, or deed restriction, conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
<b>INTERPRETATION</b>	<p><b>SECTION 7-27-1035</b> (formerly Section 7807). In the interpretation and application of this Chapter, all provisions shall be:</p> <ul style="list-style-type: none"> <li>(a) Considered as minimum requirements;</li> <li>(b) Liberally construed in favor of the County of Tulare; and</li> <li>(c) Deemed neither to limit or repeal any other powers granted under state statutes.</li> </ul>
<b>WARNING AND DISCLAIMER</b>	<b>SECTION 7-27-1040</b> (formerly Section 7808). The degree of flood protection required by this Chapter is considered reasonable for regulatory

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## **OF LIABILITY**

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 Chapter 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 Chapter shall not create liability on the part of the County of Tulare, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result reliant on this Chapter or any administrative decision lawfully made thereunder.

## **SEVERABILITY**

**SECTION 7-27-1041.** This Chapter and the various parts thereof are hereby declared to be severable. Should any section of this Chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Chapter as a whole or any portion thereof other than the section so declared to be unconstitutional or invalid. (Added by Ord. No. 3212, effective 10-29-98).

## **ARTICLE 3 (formerly Article 2). ADMINISTRATION**

### **ESTABLISHMENT OF BUILDING PERMIT**

**SECTION 7-27-1090** (formerly Section 7810). (Amended by Ord. No. 2822, effective 3-10-88, amended by Ord. No. 3287, effective 6-19-03.) A Building Permit shall be obtained in accordance with Chapter 15 of this Part before construction or development is commenced within any area of special flood hazard established in Section 7-27-1020 of this Chapter. In addition to the requirements of Chapter 15, an application for a Building Permit shall be made on forms furnished by the Planning and Development Director and may include, but not be limited to: plans in duplicate 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 corner and 20-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; and

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- (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; and
  - 2. For a crawl-space foundation, location and total net area of foundation openings as required in Section 7-27-1180 of this Chapter and FEMA Technical Bulletins TB 1-93 and TB 7-93; and
  - 3. For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to 95 percent using the Standard Proctor method); and
- (c) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 7-27-1180 of this Chapter and FEMA Technical Bulletin TB 3-93; and
- (d) All appropriate certifications listed in Section 7-27-1180 of this Chapter; and
- (e) Description of the extent of which any watercourse will be altered or relocated as a result of proposed development.

**DESIGNATION OF RESPONSIBILITY**

**SECTION 7-27-1095** (formerly Section 7811). The Planning and Development Director and Public Works Director are hereby appointed as Floodplain Administrators to jointly administer and implement this Chapter by granting or denying building permit applications in accordance with its provisions. (Amended by Ord. No. 2822, effective 3-10-88; amended by Ord. No. 3212, effective 10-29-98).

**JOINT DUTIES AND RESPONSIBILITIES**

**SECTION 7-27-1100** (Amended by Ord. No. 3287, effective 6-19-03; amended by Ord. No. 3425, effective 6-10-11.). The joint duties and responsibilities of the Planning and Development Director and Public Works Director shall include, but not be limited to:

- (a) Development Review:
  - 1. Review of all building permits to determine that the permit requirements of this Chapter have been satisfied.
  - 2. Review of all other required state and federal permits have been obtained. (Added by Ord. No. 3425, effective 6-10-11.)

**FLOOD DAMAGE PREVENTION**

3. Review of all permits to determine that the site is reasonably safe from flooding.
  4. Review of all building permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of this Chapter, "adversely affected" 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 (1) foot at any point.
  - (4) Review of all proposals for the development of five (5) or more lots or dwelling units to assure that the flood discharge exiting the development after construction is equal to or less than the flood discharge at the location prior to development.
- (b) Review Use and Develop Other Base Flood Data:
- (1) When the base flood elevation data has not been provided in accordance with Section 7-27-1020 (special flood hazard areas designated as Zone A on the FIRM), the Planning and Development Director and Public Works Director shall obtain, review, and reasonably utilize the best base flood data available from any source (federal, state or other) such as: high water mark(s), floods of record, or private engineering reports, in order to administer Article 5 (formerly Article 3) of this Chapter and provide the developer with an estimated base flood elevation. (Amended by Ord. No. 2822, effective 3-10-88.)
  - (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 Article 5:
    - (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. The 100 year or base flood discharge and the base flood elevation shall be obtained using detailed methods identified in FEMA Publication 265, published in July 1995 and titled: "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100 year) Flood Elevation".
  - (c) Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:
    - (i) Certification required by Section 7-27-1180 and Section 7-27-1210 (lowest floor elevations).
  - (d) Map Determination: Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be 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 7-27-1315.
  - (e) Remedial Action: Take action to remedy violations of this Chapter as specified in Section 7-27-1025
- (c) Notification of other agencies: (Added by Ord. No. 3425, effective 6-10-11)
- (1) Base Flood Elevation changes due to physical alterations:
    - (A) Within 6 months of information becoming available or project completion, whichever comes first, the

floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

- (B) All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

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.

- (2) Changes in corporate boundaries:

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.

**DUTIES AND  
RESPONSIBILI-  
TIES OF THE  
PLANNING AND  
DEVELOPMENT  
DIRECTOR**

**SECTION 7-27-1105** (formerly Section 7813). The duties and responsibilities of the Planning and Development Director shall include, but not be limited to:

- (a) Referral and inspection:
  - (1) Refer all building permits for property located within special flood hazard areas to the Public Works Director for review prior to approval.
  - (2) Inspect all construction, including installation of mobilehomes, to insure compliance with the requirements of this Chapter.

- (b) Information to be Obtained and Maintained:

Obtain and maintain for public inspection and make available as needed for flood insurance policies:

- (1) The certified elevation required in Section 7-27-1180(a) (formerly Section 7823(a)); (residential)

- (2) The certification required in Section 7-27-1180 (b) (formerly Section 7823(b)); (shallow flooding)
  - (3) The certification required in Section 7-27-1180 (c) (formerly Section 7823(c)); (Zone A)
  - (4) The floodproofing certification required in Section 7-27-1180 (d) (formerly Section 7823(d)); (non-residential)
  - (5) The certified elevation required in Section 7-01-2035 (formerly Section 7080.3); (subdivision) and
  - (6) The anchoring and compliance certification required in Section 7-27-1210 (b) and (d) (formerly Section 7828(b) and (d) (mobilehome).
- (c) FEMA Reports:

Upon request by the Federal Emergency Management Agency (FEMA), prepare and submit reports to FEMA concerning the County's participation in the National Flood Insurance Program. (Amended by Ord. No. 2822, effective 3-10-88.)

**DUTIES AND  
RESPON-  
SIBILITIES OF  
THE PUBLIC  
WORKS  
DIRECTOR**

**SECTION 7-27-1110** (Ameded by Ord. No. 3425, effective 6-10-11.). The duties and responsibilities of the Public Works Director in his capacity as Engineer to the Tulare County Flood Control District, shall include, but not be limited to:

- (a) Alteration of Watercourses:

Notify adjacent cities and counties and the California Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. (Amended by Ord. No. 3425, effective 6-10-11.)

- (b) Interpretation of Flood Insurance Rate Map (FIRM) Boundaries:

Provide interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards. Where there appears to be a conflict between a mapped boundary and actual field conditions, the applicant may file for a "Letter of Map Amendment" (LOMA) in accordance with the National Flood Insurance Program. The LOMA may be filed with the Public

**FLOOD DAMAGE PREVENTION**

Works Director for transmittal to FEMA in the manner provided by law.

**FLOOD CONTROL  
MASTER PLAN**

**SECTION 7-27-1115** (formerly Section 7815). The Board of Supervisors, Planning Commission, Site Plan Review Committee and Zoning Administrator shall weigh all requests for future floodplain development against the Flood Control Master Plan of the Tulare County Control District. Consideration of the following elements are required before approval:

- (a) Determination of whether or not a proposed development is in or affects a known flood plain.
- (b) Inform the public of the proposed activity.
- (c) Determine if there is a practicable alternative or site for the proposed activity.
- (d) Identify the impact of the activity on the flood plain.
- (e) Provide a plan to mitigate the impact of the activity in accordance with the provisions in Section 7812(a)(4).

**ARTICLE 5** (formerly Article 3). **PROVISIONS FOR FLOOD HAZARD REDUCTION**

**STANDARDS OF  
CONSTRUCTION**

**SECTION 7-27-1165** (formerly Section 7820). In all areas of special flood hazard shown on the FIRM, the standards set forth in this Article shall be required:

**ANCHORING**

**SECTION 7-27-1170** (formerly Section 7821).

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All mobilehomes shall meet the anchoring standards of Section 7-27-1210 (a) (formerly Section 7828(a)).

**CONSTRUCTION  
MATERIALS AND  
METHODS**

**SECTION 7-27-1175** (formerly Section 7822).

- (a) All new construction and substantial improvements shall be constructed with flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage. (Amended by Ord. No. 3287, effective 6-19-03)

**FLOOD DAMAGE PREVENTION**

- (b) All new construction and substantial improvements shall use methods and practices that minimize flood damage.
- (c) All elements that function as a part of the structure, such as furnace, hot water heater, air conditioner, etc., shall be elevated to or above the base flood elevation or depth number specified on the Flood Insurance Rate Map (FIRM).
- (d) If within Zones AH or AO, so that there are adequate drainage paths and structures on slopes to guide floodwaters around and away from proposed structures. (Subsection (d) added by Ord. No. 3212, effective 10-29-98).

**ELEVATION  
AND FLOOD-  
PROOFING:**

**SECTION 7-27-1180** (Subsections (a), (b) and (c) amended by Ord. No. 3212, effective 10-29-98; amended by Ord. No. 3287, effective 6-19-03; Subsection (f) added, and Subsection (c) amended by Ord. No. 3425, effective 6-10-11.).

- (a) New construction and substantial improvement of any structure shall have the bottom of the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the optional standards in subsection (d) of this Section. Prior to issuance of the occupancy permit or certificate, the elevation of the lowest floor, including the basement, shall be certified by a registered civil engineer or land surveyor that the elevation requirements have been met and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b).
- (b) New construction and substantial improvement of any structure in Zone AO shall have the bottom of the lowest floor, including basement, elevated to or above the depth number specified on the Flood Insurance Rate Map (FIRM) as measured from the highest adjacent grade. Nonresidential structures may meet the optional standards in subsection (d) of this Section. Prior to issuing the occupancy permit, compliance with the elevation requirement shall be certified by a registered civil engineer or land surveyor and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b) (formerly Section 7813(b)).
- (c) If no base flood elevation or depth number is provided on the FIRM (Zone A), any new construction or substantial improvement of any structure shall have the bottom of the lowest floor, including basement, elevated to:

(1) a height of at least two (2) feet above the highest adjacent grade; or

(2) eighteen (18) inches above the top of the curb across the front of the lot; or

(3) said base flood elevation shall be determined by one of the methods in Section 7-27-1100(b).

Nonresidential structures may meet the optional standards set forth in subsection (d) of this section. Prior to issuing the occupancy permit, compliance with the elevation requirement shall be certified by a registered civil engineer or land surveyor, and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b). (Amended by Ord. No. 3425, effective 6-10-11.).

(d) Nonresidential construction shall either be elevated in conformance with paragraphs a, b or c of this section or together with attendant utility and sanitary facilities, be floodproofed to the base flood elevation by one or more of the following:

1. Installation of watertight doors, bulkheads, and shutters.
2. Reinforcement of walls to resist water pressure.
3. Use of paints, membranes, or mortars to reduce seepage through walls.
4. Addition of mass or weight to structure to resist flotation.
5. Armour protection of all fill materials from scour and/or erosion.

Certification by a registered civil engineer or architect that the standards of this paragraph are satisfied and shall be provided to the Planning and Development Director as set forth in Section 7-27-1105(b). (Amended by Ord. No. 3425, effective 6-10-11.).

(e) All new construction and substantial improvement 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

FLOOD DAMAGE PREVENTION

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Technical Bulletins TB 1-93 and TB 7-93, and must exceed the following minimum criteria:

- (1) 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 flood water; or
  - (2) Be certified by a registered professional engineer or architect
- (f) Flood openings: (Added by Ord. No. 3425, effective 6-10-11.) All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:
- (1) For non-engineered openings:
    - (A) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - (B) The bottom of all openings shall be no higher than one foot above grade;
    - (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
    - (D) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
  - (2) Be certified by a registered civil engineer or architect.

**STANDARDS FOR  
ELEVATION  
CERTIFICATES:**

**SECTION 7-27-1185** (formerly Section 7823.1).

- (a) Certification of the elevation of the lowest floor or floodproofed elevation is required at that point where the footings are set and slab poured. Failure to submit an elevation certification shall be cause to issue a stop-work order for the project. As-built plans certifying the elevation of the lowest adjacent grades is also required. (Amended by Ord. No. 3212, effective 10-29-98)
- (b) Except within zones A and AO, the benches that are shown on the FIRM shall be used in calculating the elevation of the lowest floor.
- (c) If fill is used to elevate a structure above the base flood elevation, the permit holder may apply for a Letter of Map Amendment (LOMA), as set forth in Section 7-27-1110(b) (formerly Section 7814(b)).

**STANDARDS FOR  
ALLUVIAL FANS**

**SECTION 7-27-1190** (formerly Section 7824). Areas subject to alluvial fan flooding have irregular flow paths that result in erosion of existing channels and the undermining of fill material. Those areas are identified on the Flood Insurance Rate Map (FIRM) as AO Zones with velocities.

- (a) All structures must be securely anchored to minimize the impact of the flood and sediment damage.
- (b) All new construction and substantial improvements must be elevated on pilings, columns, or armored fill so that the bottom lowest floor beam is elevated at or above the depth number.
- (c) Use of all fill materials must be armored to protect the material from the velocity of the flood flow.
- (d) All proposals for subdivision development must provide a mitigation plan that identifies the engineering methods used to:
  - 1. Protect structures from erosion and scour caused by the velocity of the flood flow.
  - 2. Capture or transport flood and sediment flow through the subdivision to a safe point of disposition.
- (e) All mobilehomes shall be prohibited within the identified hazard area except within existing mobilehome parks or subdivisions.

**STANDARDS  
FOR STORAGE**

**SECTION 7-27-1195** (formerly Section 7825).

**FLOOD DAMAGE PREVENTION**  
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**OF MATERIALS  
AND EQUIPMENT**

- (a) The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive, or could be injurious to human, animal, or plant life, is prohibited.
- (b) Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

**STANDARDS  
FOR UTILITIES**

**SECTION 7-27-1200** (formerly Section 7826).

- (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.

**STANDARDS FOR  
SUBDIVISIONS**

**SECTION 7-27-1205** (Amended by Ord. No. 3425, effective 6-10-11.)

- (a) All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 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.
- (b) All subdivision proposals and other proposed development shall

be consistent with the need to minimize flood damage.

- (c) All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (d) All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

**STANDARDS FOR  
MOBILEHOMES  
AND  
MOBILEHOME  
PARKS AND  
SUBDIVISIONS**

**SECTION 7-27-1210** (formerly Section 7828).

- (a) All new mobilehomes and additions to mobilehomes shall be anchored to resist flotation, collapse, or lateral movement by at least one of the following methods:
  - 1. By providing an anchoring system designed to withstand horizontal forces of 15 pounds per square foot and uplift forces of 9 pounds per square foot; or
  - 2. By the anchoring of the unit's system, designed to be in compliance to the Department of Housing and Urban Development Mobilehome Construction and Safety Standards; or
  - 3. By bolting the frame or undercarriage to a reinforced, permanent foundation such as a retaining wall or storm wall used to set the unit.

As set forth in Section 7-27-1105(b) (formerly Section 7813(b)), certification meeting the standards above is required of the installer or state agency responsible for regulating the placement, installation, and anchoring of individual mobilehome units.

- (b) The following standards shall be required for mobilehomes not placed in mobilehome parks or subdivisions, new mobilehome parks or subdivisions, expansions to existing mobilehome parks or subdivisions, and repair, reconstruction, or improvements to existing mobilehome parks or subdivisions that equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction or improvement commences:
  - 1. Adequate surface drainage and access for a hauler shall be provided.
  - 2. All mobilehomes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of

**FLOOD DAMAGE PREVENTION**

the mobilehome is at or above the base flood level. If elevated on pilings:

- (i) The lots shall be large enough to permit steps;
  - (ii) The pilings shall be placed in stable soil no more than ten (10) feet apart; and
  - (iii) Reinforcement shall be provided for pilings more than six (6) feet above ground level.
- (c) Certification of compliance is required of the developer responsible for the plan or state agency responsible for regulating mobilehome placement.
- (d) Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer and surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator. (Amended by Ord. No. 3287, effective 6-19-03)

## **STANDARDS FOR RECREATIONAL VEHICLES**

**SECTION 7-27-1211** (Added by Ord. No. 3212, effective 10-29-98). All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map will either:

- (a) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or a jacking system, is attached to the site only by quick-disconnect type utilities; and has no permanently-attached additions; or
- (b) Meet the permit requirements of Article 3 of this Chapter and the elevation and anchoring requirements for manufactured homes in Section 7-27-1210.

## **FLOODWAYS**

**SECTION 7-27-1215** (Amended by Ord. No. 3425, effective 6-10-11.). Areas designated as floodways are located within areas of special flood hazard established in Section 7-27-1020. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered civil engineer is provided

### **FLOOD DAMAGE PREVENTION**

demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (b) Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point. (Added by Ord. No. 3425, effective 6-10-11.)
- (c) No mobilehome shall be placed in a floodway, except in an existing mobilehome park or existing mobilehome subdivision.
- (d) The requirements of Section 14.7 of the County Zoning Ordinance (Ordinance No. 352 as amended) shall also be applicable at such time that the County Zoning Map is amended to apply F-1 zoning within the floodway.

#### **ARTICLE 7 (formerly Article 4). VARIANCES**

##### **VARIANCES: AUTHORITY TO ACT**

**SECTION 7-27-1265** (formerly Section 7830). If practical difficulties, unnecessary hardships or results inconsistent with the general purpose of this Chapter result through the strict interpretation and enforcement of this Chapter, then the Zoning Administrator shall have the authority to grant a variance from the provisions of this Chapter such as may be in harmony with its general purpose and intent, so that the spirit of this Chapter shall be observed, public safety and welfare served and substantial justice done.

##### **APPLICATIONS FOR VARIANCES; FEES**

**SECTION 7-27-1270** (formerly Section 7831).

- (a) The Zoning Administrator shall grant a variance under the provisions of this Article only upon the filing of a written application therefor by the owner of the real property affected or his or her authorized agent. The Resource Management Agency Director shall prescribe the form of application for such variances.
- (b) Unless otherwise provided, the Board of Supervisors shall adopt, from time to time by resolution, a schedule of fees to be paid by applicants to defray the expenses incidental to the proceedings. No part of said fee shall be returned to the applicant if he or she subsequently withdraws the application, except in accordance with Section 130 of this Ordinance Code. (Amended by Ord. No. 2822, effective 3-10-88; amended by Ord. No. 2850, effective 10-8-88;

#### **FLOOD DAMAGE PREVENTION**

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amended by Ord. No. 2856, effective 11-5-88; amended by Ord. No. 2885, effective 9-9-89; amended by Ord. No. 2921, effective 9-8-90; amended by Ord. No. 3035, effective 8-21-93; amended by Ord. No. 3184, effective 7-1-97; amended by Ord. No. 3262, effective 12-1-01.)

- (c) An additional fee in the amount of Ten Dollars (\$10.00) shall be collected for each variance application to defray the expenses incidental to maintaining and enhancing the automated permit processing equipment and software utilized in the Planning and Development Department for processing of planning and building permits and certificates. (Amended by Ord. No. 3083, effective 8-13-94; amended by Ord. No. 3116, effective 6-24-95.)
- (d) Unless otherwise provided herein, whenever there is a joint filing of multiple applications and the applicant consents to the consolidated processing of those applications, the applicable filing fees shall be reduced by twenty-five percent (25%). As used herein, the term "multiple applications" shall consist of two (2) or more applications for changes of zone, special use permits (including amendments thereto), variances, planned unit developments and planned developments, tentative subdivision maps, tentative parcel maps (including vesting maps), building line setback variances, flood variances and surface mining permits and reclamation plans (including amendments thereto) which pertain to the same project. (Added by Ord. No. 3184, effective 7-1-97.)

**PROCEDURE FOR PROCESSING VARIANCES**     **SECTION 7-27-1275** (formerly Section 7832).

- (a) Before acting on a variance the Zoning Administrator shall hold at least one (1) public hearing. Notice of such public hearing shall be given by publishing a notice of such hearing setting forth the time and place of the hearing and the nature of the variance requested, in a newspaper of general circulation published in the County, once, not less than ten (10) days prior to the date of such public hearing, and by mailing a copy of the notice of said hearing, not less than ten (10) days prior to the date of such public hearing, to the following persons or agencies:

1. The applicant.
2. County Flood Control Engineer.
3. County Public Works Director.
4. Supervisor of the Supervisorial District in which the

**FLOOD DAMAGE PREVENTION**

property is located.

5. State Reclamation Board.
  6. All owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property which is the subject of the variance.
- (b) The decision of the Zoning Administrator shall be in writing and shall include findings of facts relied on in making the decision.
- (c) A copy of the decision of the Zoning Administrator shall be publicly posted at or near the door of the Planning and Development Department for a period of one (1) week following the making thereof. Not more than two (2) days after making the decision on the application, the Zoning Administrator shall cause a copy of the decision to be mailed to the applicant, to the Board of Supervisors, and to any other person who has expressed an interest therein and has deposited with the Zoning Administrator a self-addressed, stamped envelope for that purpose. Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the decision. (Amended by Ord. No. 3-10-88.)

**VARIANCES:  
FACTORS TO  
CONSIDER**

**SECTION 7-27-1280** (formerly Section 7833). (Amended by Ord. No. 3212, effective 10-29-98).

- (a) In passing upon such applications, the Zoning Administrator shall consider all technical evaluations and all relevant factors and standards specified in this Chapter, and:
1. The danger that materials may be swept onto other lands to the injury of others.
  2. The danger to 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 County.
  5. The necessity to the facility of a waterfront location, where applicable.

**FLOOD DAMAGE PREVENTION**

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6. The availability of alternative locations for the proposed uses that 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 County General Plan and the 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 floodwaters expected at the site.
  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 systems, and streets and bridges.
- (b) Any applicant to whom a variance is granted shall be given a written notice over the signature of the Zoning Administrator 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 \$24 for \$100 of insurance coverage; and
  2. Such construction below the base flood level increases risks to life and property.

**VARIANCES:  
PRIOR CONSENT**

**SECTION 7-27-1285** (formerly Section 7833.5). No variance which is subject to the provisions of Section 8414.2 of the California Water Code shall be approved without the prior written consent of the Department of Water Resources or State Reclamation Board and of the Engineer for the County Flood Control District.

**VARIANCES:  
LOT SIZE  
CONSIDERATIONS**

**SECTION 7-27-1290** (formerly Section 7834). Generally, variances may be approved 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 the factors set forth in Section 7833 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

**VARIANCES:  
AUTHORITY  
TO IMPOSE  
CONDITIONS**

**SECTION 7-27-1295** (formerly Section 7835). Upon consideration of the factors set forth in Section 7-27-1280 (formerly Section 7833) and the purposes of this Chapter, the Zoning Administrator may attach such conditions to the granting of variances as he or she deems necessary to further the purpose of this Chapter.

**VARIANCES:  
CONDITIONS**

**SECTION 7-27-1300** (formerly Section 7836).

- (a) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
- (b) Variances shall not be granted within any floodway if any increase in flood levels during the base flood discharge would result.
- (c) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall only be granted upon:
  - 1. A showing of good and sufficient cause such as renovation, rehabilitation, or reconstruction. Variances for reasons of economic considerations, aesthetics, or because variances have been used in the past shall not be considered good and sufficient cause.
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization to the public, or conflict with existing County ordinances.
- (e) 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 flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation.

**USE PERMIT**

**SECTION 7-27-1305** (formerly Section 7836.5). Notwithstanding the provisions of Section 7-27-1265 (formerly Section 7830), no variance shall be required under this Article if the proposed construction or

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substantial improvements have been approved in accordance with the use permit requirements set forth in Section 14.7 of the County Zoning Ordinance (Ordinance No. 352, as amended).

## **REVOCATIONS**

**SECTION 7-27-1310** (formerly Section 7837). Any variance which is granted subject to conditions may be revoked by the Zoning Administrator if any of the conditions are violated. The same procedures shall be followed for revocation of a variance as are followed for granting a variance, including the appeal procedures, except that notice of the public hearing by the Zoning Administrator on revocation need not be published in a newspaper.

## **APPEALS**

**SECTION 7-27-1315** (formerly Section 7838).

- (a) Except as herein provided, all appeals regarding decisions on variances shall be subject to the provisions of Section 165 (formerly Section 115) of this Ordinance Code.
- (b) Any person adversely affected by a decision of the Zoning Administrator on the variance may appeal the decision to the Board of Supervisors. An appeal to the Board of Supervisors shall be in writing and filed with the Clerk of the Board of Supervisors within ten (10) days after the date on which the decision of the Zoning Administrator was made. An appeal shall specifically set forth the grounds for the appeal. In addition to the notice requirement of Section 165 (formerly Section 115) of this Ordinance Code, the Board shall give notice of the appeal hearing to the persons and agencies named in Section 7-27-1275 (formerly Section 7832) of this Article for giving notice by the Zoning Administrator.
- (c) At the time of filing the appeal, the appellant shall pay a fee of Three Hundred Dollars (\$300) to the Planning and Development Director to defray the expenses incidental to the proceedings. (Amended by Ord. No. 2885, effective 9-9-89; amended by Ord. No. 2921, effective 9-8-90; amended by Ord. No. 3002, effective 8-28-92; amended by Ord. No. 3035, effective 8-21-93; amended by Ord. No. 3083, effective 8-13-93; amended by Ord. No. 3116, effective 6-24-95).

## **RECORDS**

**SECTION 7-27-1320** (formerly Section 7839). The Planning and Development Director as Floodplain Administrator shall maintain a records of all variance actions, including justification for their issuance and any appeal actions, and report any variances in the biennial report submitted to the Federal Insurance Agency and of the Federal Emergency

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Management Agency. (Amended by Ord. No. 2822, effective 3-10-88; amended by Ord. No. 3212, effective 10-29-98.)

**ARTICLE 9** (formerly Article 5). **NUISANCE, VIOLATIONS**

**NUISANCE**

**SECTION 7-27-1370** (formerly Section 7840). Any building, structure, substantial improvement, or other installation which is subject to this Chapter and which is not in full compliance with the requirements of this Chapter shall constitute a public nuisance.

**VIOLATIONS**

**SECTION 7-27-1375** (formerly Section 7841). Any person violating any of the provisions of this Chapter which are declared to be unlawful shall be guilty of an infraction and shall be punishable as provided in section 125 (formerly Section 106) of this Ordinance Code. Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable therefor as provided hereinabove.