



SUMMARY OF ORDINANCE NO. 548 OF THE NEWARK CITY COUNCIL

NOTICE IS HEREBY GIVEN that the City Council of the City of Newark, at its City Council meeting of Thursday, April 11, 2024, adopted:

ORDINANCE NO. 548

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK REPEALING AND REPLACING IN ITS ENTIRETY NEWARK MUNICIPAL CODE CHAPTER 15.40 TO ADOPT A NEW CONSTRUCTION IN FLOOD HAZARD AREAS; TO ADOPT FLOOD HAZARD MAPS; TO DESIGNATE A FLOODPLAIN ADMINISTRATOR; AND FOR OTHER PURPOSES

Newark Municipal Code Chapter 15.40, Construction in Flood Hazard Areas, in combination with flood protection provisions of the 2022 California Building Standards, governs all proposed development and construction located within flood hazard areas identified by the Federal Emergency Management Agency (FEMA). Over the last several years, FEMA has updated the location of specific flood proofing requirements within various chapters of the 2022 California Building Standards. As a result, the City's current flood plain ordinance has become outdated according to the National Flood Insurance Program (NFIP) administered by FEMA. The proposed ordinance would amend the Newark Municipal Code to align entirely with the new FEMA requirements for local jurisdictions. The modifications to the Newark Municipal Code will not have a significant impact on the requirements applied to property owners for construction in these areas.

Said Ordinance was passed and adopted by the following vote:

AYES: Council Members Bucci, Collazo, Jorgens, Vice Mayor Freitas, and Mayor Hannon

NOES: None

The full text of this ordinance is available for public inspection on the City website at <https://www.newark.org/departments/city-manager-s-office/agendas-minutes>, or in the Office of the City Clerk, David W. Smith City Hall, 37101 Newark Boulevard, Newark, California, during regular business hours on weekdays.

Sheila Harrington, City Clerk



I, Sheila Harrington, City Clerk of the City of Newark, State of California, hereby certify under penalty of perjury the foregoing instrument to be a full, true and correct copy of the original now on file in my office.

Date:

4/16/2024

Sheila Harrington
Sheila Harrington – City Clerk

By:

32 pages

Deputy City Clerk

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WHEREAS, 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; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Newark (the “City”) 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 was accepted for participation in the National Flood Insurance Program in June 1978 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, pursuant to the California Health and Safety Code, Division 13, Part 1.5 and Part 2.5, the City is required to administer and enforce the California Building Standards Code, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the City Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the California Building Standards Code.

THE CITY COUNCIL OF THE CITY OF NEWARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals.

The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. Municipal Code Amendment.

Newark Municipal Code Chapter 15.40, Construction in Flood Hazard Areas, is repealed and replaced in its entirety as contained in Exhibit A, attached hereto and incorporated herein.

SECTION 3. Severability.

The foregoing ordinance was introduced and read before the City Council of the City of Newark by Council Member Collazo at the regular meeting of the City Council of the City of Newark held on March 28, 2024.

This ordinance was read at the regular meeting of the City Council held April 11, 2024. Council Member Collazo moved that it be adopted and passed, which motion was duly seconded, and said ordinance was passed and adopted.

AYES: Council Members Bucci, Collazo, Jorgens, Vice Mayor Freitas, and Mayor Hannon

NOES: None

ABSENT: None

SECONDED: Vice Mayor Freitas

APPROVED:

MICHAEL K. HANNON
Mayor

ATTEST:

SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

KRISTOPHER J. KOKOTAYLO
City Attorney

- I. Minimize the need for rescue and relief efforts associated with flooding.
- J. Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- K. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- 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.

15.40.014 - Coordination with *California Building Standards Code*.

Pursuant to the requirement established in State statute that the **City of Newark** administer and enforce the *California Building Standards Code*, the **city council of City of Newark** 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.

15.40.015 - Warning.

The degree of flood protection required by these regulations and the building codes is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations and the building codes does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with these regulations.

15.40.016 - Disclaimer of liability.

These regulations shall not create liability on the part of **city council**, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made hereunder. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the community in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by a legal representative of the community until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

15.40.030 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

15.40.031 - Designation.

The **Chief Building Official** is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

15.40.032 - General authority.

The Floodplain Administrator is authorized and directed to administer and enforce these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Article 107 of these regulations. The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a qualified California (CA) Licensed Land Surveyor or Civil Engineer when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with these regulations.

15.40.033 - Coordination.

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 15.40.035 of these regulations.

15.40.034 - Duties.

The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

- A. Review all permit applications and plans to determine whether proposed development is located in flood hazard areas.
- B. Review all applications and plans for development in flood hazard areas for compliance with these regulations.
- C. 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.

- 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.

15.40.036 – 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.

15.40.040 PERMITS FOR FLOODPLAIN DEVELOPMENT

15.40.041. - Permits 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.

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.

15.40.046. - 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.

15.40.047 - 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 Manager** by filing a written appeal setting forth the reasons of the appeal.

15.40.050 SITE PLANS AND CONSTRUCTION DOCUMENTS

15.40.051 - 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 15.40.052 or 15.40.053 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 15.40.052(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. Extent of any proposed alteration of sand dunes, provided such alteration is approved by the California Coastal Commission or certified Local Coastal Program, if applicable.

base flood elevations are included in the effective Flood Insurance Study or on the effective 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 one (1) foot 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 15.40.054 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.
- D. For activities that propose to alter sand dunes in coastal high hazard areas (Zone V/VE) and Coastal A Zones, an engineering analysis that demonstrate the proposed alteration will not increase the potential for flood damage.

15.40.054 - Submission of additional data.

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, 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.

15.40.060 INSPECTIONS

15.40.061 - 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.

15.40.062 - 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

15.40.072 – Variances; general.

The Floodplain Ad-hoc Committee which consists of the Community Development Director, the City Engineer and the Chair of the planning Commission, or their designees, shall hear and decide requests for variances from the strict application of these regulations.

15.40.073 - Limitations on authority.

The **Floodplain Ad-hoc Committee** 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.

15.40.074 - Records.

The Floodplain Administrator shall maintain a permanent record of all variance actions, including justification for issuance, and report such variances issued to the Federal Emergency Management Agency upon request.

15.40.075 - Historic structures.

A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic structure upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the structure's continued designation as a 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 structure, 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 in conjunction with the provisions of this Ordinance.

15.40.076 - Restrictions in floodways.

A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analyses required in 15.40.053 (A) of these regulations.

15.40.077 - Functionally dependent uses.

A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the criteria in Section 1612 of the building code (CCR Title 24 Part 2) or Section R322 of the residential code (CCR Title 24 Part 2.5) are met, as applicable, and the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damages during the base flood and create no additional threats to public safety.

- E. The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- F. The compatibility of the proposed development with existing and anticipated development.
- G. The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, if applicable, expected at the site.
- J. 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, streets, and bridges.
- K. Necessity to the facility of a waterfront location, where applicable.
- L. Variances shall not be issued within any effective regulatory floodway if any increase in flood levels during the base flood discharge would result.
- M. 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 structure constructed below the design flood level, providing that the procedures of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

15.40.080 - Conditions for issuance of variances. Variances shall only be issued upon:

- A. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or future property owners, or conflict with existing local laws or ordinances.
- D. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. When the request is to allow construction of the lowest floor of a new building or substantial improvement of a building below the design flood elevation, notification to the applicant in writing over the signature of the Floodplain Administrator specifying the difference between the design flood elevation and the proposed elevation of the lowest floor, stating that issuance of a variance to construct below the elevation required in the building code will result in increased premium rates for federal flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the required elevation increases risks to life and property.

or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

“Alteration of a 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.

“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.

“Base flood” means the flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in CCR Title 24 Part 2.]

“Base flood elevation” 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). [Also defined in CCR Title 24 Part 2.]

“Basement” means, for the purpose of floodplain management, the portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in CCR Title 24 Part 2.]

“Breakaway walls” are any type of walls, could be solid or lattice, and or constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building. A breakaway wall shall be 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 breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by California Civil Engineer and shall meet the following conditions:

- A. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- B. 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.

“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:

- A. Part 2, applicable to buildings and structures other than dwellings within the scope of this part.
- B. Part 2.5, applicable to one- and two-family dwellings and townhouses not more than three stories, and accessory structures.
- C. Part 10, applicable to existing buildings (as defined in that code).
- D. Other specified codes.

“Coastal A Zone” means a special flood hazard area, landward of a V zone or landward of an open coast without mapped coastal high hazard areas. In a coastal A zone, the principal source of flooding must be astronomical tides, storm surges, seiches or tsunamis, not riverine flooding.

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).

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land from:

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.
- C. Mudslides (i.e., mudflows) which are proximately caused by flooding.

“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.

“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. [Also defined in CCR Title 24 Part 2.]

“Flood hazard area” means the greater of the following two areas: [Also defined in CCR Title 24 Part 2.]

- A. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- B. The area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

“Flood Insurance Rate Map (FIRM)” means an official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the community. [Also defined in CCR Title 24 Part 2.]

“Flood Insurance Study” means the official report provided by the Federal Emergency Management Agency containing the Flood Insurance Rate Map (FIRM), the Flood Boundary and Floodway Map (FBFM), the water surface elevation of the base flood and supporting technical data. [Also defined in CCR Title 24 Part 2.]

“Floodplain Administrator” means the community official designated by title to administer and enforce the floodplain management regulations.

“Floodway” means the channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (not to exceed one foot, as set by the National Flood Insurance Program.) [Also defined in CCR Title 24 Part 2.]

“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,

- A. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- B. Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or
- C. Available with special features enabling off-street or off-highway operation and use.

“Limit of Moderate Wave Action (LiMWA)” means a line shown on FIRMs to indicate the inland extent of the 1 1/2-foot breaking wave height during the base flood. [Also defined in CCR Title 24 Part 2.]

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the building codes. [Also defined in CCR Title 24 Part 2.]

“Manufactured home” means a structure that is transportable in one or more sections, built on a permanent chassis, designed for use as a single-family dwelling with or without a permanent foundation when connected to the required utilities, and constructed to the Manufactured Home Construction and Safety Standards promulgated by the U.S. Department of Housing and Urban Development. Also see definitions in Health and Safety Code sections 18000.(a)(2) and 18001.(a). For the purposes of floodplain management, the term also includes mobile homes and recreational vehicles, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

“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.

“Market value” means the price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by one of the following methods: (1) Actual Cash Value (replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) a qualified independent appraiser.

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

“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) was completed on or after **June 1978**.

“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.

improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in CCR Title 24 Part 2.]

- A. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- B. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

“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.

“Variance” means a grant of relief from the requirements of these regulations which permits construction in a manner otherwise prohibited and where specific enforcement would result in exceptional hardship.

“Violation” means a development that is not fully compliant with these regulations or the flood provisions of the building code, as applicable.

“Watercourse” means a river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

15.40.110 FLOOD RESISTANT DEVELOPMENT FOR BUILDINGS AND STRUCTURES

15.40.111 - 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 and the floodplain development requirements of this Ordinance.

15.40.112 – 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:

- A. Detached garages and accessory storage structures, with the exception of small, low cost sheds as defined in 15.40.102, are one story and not larger than 600 square feet in area when located in special flood hazard areas other than coastal high hazard areas.
- B. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in 15.40.102 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
- C. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
- D. Have flood openings in accordance with the building code.
- E. Have flood damage-resistant materials used below the base flood elevation.
- F. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation.

home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- A. The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, as appropriate, shall be delineated on preliminary subdivision plats.
- B. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with 15.40.052 (A) of these regulations.
- C. 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 California Licensed Land Surveyor or Civil Engineer

15.40.130 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

15.40.131 - Minimum requirements. All proposed development in flood hazard areas shall be reviewed to determine that:

- A. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding.
- B. Where the proposed development has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with 15.40.052 (A) of these regulations.
- C. All public utilities and facilities, such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage.
- D. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from proposed structures.

15.40.132 - 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.

15.40.133 - 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.

15.40.134 - 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 15.40.053 (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.

15.40.135 - Limitations on placement of fill.

Such development and site improvement activities include but are not limited to:

- A. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures.
- B. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the base flood or otherwise function to avoid obstruction of floodwaters.
- C. On-site sewage treatment and disposal systems, including mound systems.

15.40.140 INSTALLATION OF MANUFACTURED HOMES

15.40.141 - Installation.

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 California Licensed Land Surveyor or Civil Engineer, to the Floodplain Administrator.

15.40.142 - Foundations.

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:

- A. In flood hazard areas other than coastal high hazard areas and Coastal A Zones, 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 15.40.145 of these regulations are permitted to be reinforced piers or other foundation elements of at least equivalent strength.
- B. In coastal high hazard areas (Zone V/VE) and Coastal A Zones, are designed in accordance with the foundation requirements of Section R322.3 of the residential code (CCR Title 24 Part 2.5) and these regulations.

15.40.143 - Anchoring.

All new and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind loads and seismic loads.

15.40.144 - General elevation requirement.

Unless subject to the requirements of 15.40.145 of these regulations, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision;

15.40.151 - Temporary placement.

Recreational vehicles in flood hazard areas, shall be placed on a site for less than 180 consecutive days or shall be fully licensed and ready for highway use. Ready for highway use means the recreational vehicle is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, such as rooms, stairs, decks and porches.

15.40.152 - Permanent placement.

Recreational vehicles that do not meet the limitations in 15.40.151 for temporary placement shall meet the requirements of 15.40.140 for manufactured homes.

15.40.160 OTHER DEVELOPMENT

15.40.161 - General requirements for other development.

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 15.40.134 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, heating/cooling, ventilation, 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.

15.40.162 - 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.

15.40.163. - Requirements for temporary structures and temporary storage in flood hazard areas.

Temporary structures shall be erected for a period of less than 180 consecutive 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 15.40.045 of these regulations. In addition, the following apply:

- A. 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

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) and, if issued, the Conditional Letter of Map Revision. 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.