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# STAFF REPORT

## PLANNING COMMISSION MEETING

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**MEETING DATE:** April 1, 2019

**SUBJECT:** Text Amendment to update the Flood Damage Prevention Overlay Zone (Chapter 20.255) and Variances (Chapter 20.525) of the San Marcos Municipal Code to be compliant with current National Flood Insurance Program (NFIP) requirements  
Resolution PC 19-4769, Project TA 19-0001  
CEQA Exemption 19-009

### RECOMMENDATION

APPROVE a Resolution recommending that the City Council adopt an ordinance amending certain provisions under Title 20 of the San Marcos Municipal Code for flood zone impacted properties within the City of San Marcos and find the project Categorically Exempt from the California Environmental Quality Act (CEQA).

### INTRODUCTION

The City of San Marcos is a member of the National Flood Insurance Program (NFIP). As a member, City staff meets periodically with a Federal Emergency Management Agency (FEMA) representative to discuss the City's involvement in the program and evaluate the City's regulatory efforts for floodplain management and administrative practices and procedures. As a result of the latest meeting in August, 2016 minor updates in the City's Floodplain Management Program were identified. The updates include adding definitions and clarification language related to Variance procedure in the City's Municipal Code regarding Floodplain Management.

### DISCUSSION

City staff have been working with FEMA to address the updates in the applicable sections of the City's Municipal Code. The updates identified in the Flood Damage Prevention Overlay Zone (Chapter 20.255) include the addition of three definitions in Section 20.255.170 to define

“Manufactured home”, “Manufactured home park” and “Recreational vehicle” to match the FEMA model Ordinance. A reference to the applicable Variance procedures in Chapter 20.525 is also added, as required by FEMA.

Variances Chapter (Chapter 20.525) of the Municipal Code is updated with clarifying language in Section 20.525.090 D and E that specifies the criteria that must be satisfied such as showing of good and sufficient cause, exceptional hardship to the applicant, determination that the granting of Variance will not result in increased flood heights or additional threats to public safety for the issuance of Variances for projects.

The specific language used in the update is taken from FEMA’s model Ordinance and is incorporated in the Flood Damage Prevention Overlay Zone and Variances Chapters of the Municipal Code, as requested by FEMA. The changes do not materially change the development requirements or Variance procedures related to floodplain management.

Staff recommends that the Planning Commission approve the attached Resolution recommending that the City Council adopt an Ordinance amending the Flood Damage Prevention Overlay Zone (Chapter 20.255) and Variances (Chapter 20.525) of the San Marcos Municipal Code to be compliant with current National Flood Insurance Program (NFIP) requirements to ensure continued participation in the NFIP.

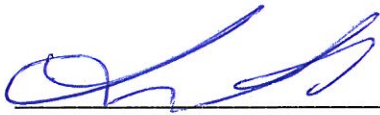
## **ENVIRONMENTAL DETERMINATION**

The proposed Resolution has been reviewed by the Development Services Department for compliance with the California Environmental Quality Act (CEQA). Staff recommends a finding of no physical effect and/or an exemption under CEQA, as the proposed Text Amendment is not a project within the meaning of Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. Additionally, even if the proposed Text Amendment was considered a project subject to CEQA, it would be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility it would have a significant effect on the environment.

**ATTACHMENT(S)**

- A. Resolution PC 19-4769 Amending SMMC Title 20

Prepared by:



Lewis Clapp, Senior Civil Engineer

Approved and Submitted by:



Karen Brindley, Planning Division Manager

**ATTACHMENT A**

**PC RESOLUTION 19-4769**

RESOLUTION PC 19-4769

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
SAN MARCOS RECOMMENDING CITY COUNCIL APPROVAL OF AN  
ORDINANCE AMENDING TITLE 20 OF THE SAN MARCOS MUNICIPAL  
CODE RELATING TO FLOODPLAIN MANAGEMENT

TA 19-0001  
City of San Marcos

WHEREAS, certain provisions contained in Title 20 of the San Marcos Municipal Code (SMMC) (Flood Damage Prevention Overlay Zone and Variances), regulate floodplain management, practices, and procedures in the City of San Marcos; and

WHEREAS, the Engineering Division of the City of San Marcos (“City”) has advised that a review of the Flood Damage Prevention Overlay Zone and Variances Chapters of Title 20 of the SMMC has been completed by the Federal Emergency Management Agency (FEMA); and

WHEREAS, FEMA has provided required revisions to the Flood Damage Prevention Overlay Zone and Variances Chapters of Title 20 of the SMMC; and

WHEREAS, adoption of compliant floodplain management regulations will continue to provide protection and safety for the City and will ensure participation in the National Flood Insurance Program (NFIP); and

WHEREAS, the Development Services Department did review the required revisions and recommends approval of said revisions; and

WHEREAS, on April 1, 2019 the Planning Commission held a duly noticed public hearing in the manner prescribed by law to consider said request; and

WHEREAS, the Planning Commission considered this request as exempt from the California Environmental Quality Act (CEQA) because this is not a project within the meaning of Section 15378 of the CEQA Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. In the event this Resolution is found to be subject to CEQA, it is exempt from CEQA pursuant to the exemption contained in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment; and

WHEREAS, the Planning Commission’s decision is based on the following findings and determinations:

1. The proposed Text Amendment to Title 20 of the San Marcos Municipal Code will not adversely affect the implementation of the General Plan in that it does not conflict with any goal, objective, or policy of the General Plan.

2. The proposed Text Amendment to Title 20 of the San Marcos Municipal Code will not be detrimental to the public health, safety, morals, and welfare in that the Text Amendment will address the regulation of floodplain management, in compliance with NFIP requirements.

NOW, THEREFORE, the Planning Commission resolves as follows:

1. The foregoing recitals are true and correct.
2. The Text Amendment modifying certain provisions contained in Title 20 of the San Marcos Municipal Code, as specified in redlined, underlined strikeouts, below, is hereby recommended to the City Council for approval.

## **CHAPTER 20.255 Flood Damage Prevention Overlay Zone**

### **Section 20.255.010 Statutory Authorization, Findings of Fact, Statement of Purpose, and Methods**

A. **Statutory Authorization.** The Legislature of the State of California has, in Government Code Sections 65302, 65560, and 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of San Marcos does hereby adopt the following floodplain management regulations.

B. **Findings of Facts.**

1. The flood hazard areas of the City are subject to periodic inundation that 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.

2. These flood losses are the cumulative effect of obstructions in flood hazard areas that cause increases in flood heights and velocities, and by uses that are inadequately elevated, floodproofed, or otherwise protected from flood damages.

- C. **Statement of Purpose.** The purpose of this chapter is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood-prone, mudslide (i.e., mudflow), or flood-related erosion areas. These regulations take precedence over any less restrictive conflicting local laws, ordinances, and codes, and are designed to do the following:
1. Protect life and health.
  2. Minimize expenditure of public money for costly flood-control projects.
  3. Minimize the need for rescue and relief efforts associated with flooding, typically undertaken at the expense of the general public.
  4. Minimize prolonged business interruptions.
  5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; streets; and bridges that are located in areas of special flood hazard.
  6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage.
  7. Ensure that potential buyers are notified that a property is in an area of special flood hazard.
  8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their action
- D. **Methods of Reducing Flood Losses.** To accomplish its purposes, this chapter includes regulations to enforce the following:
1. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion or flood heights or velocities.
  2. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage through measures taken at the time of initial construction.

3. Limit the alteration of natural floodplains, stream channels, and natural protective barriers that help accommodate and channel flood waters.
4. Limit filling, grading, dredging, and other development that may increase flood damage.
5. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards in other areas.

#### **Section 20.255.020 - Applicability**

This chapter shall apply to all areas of special flood hazards, areas of flood-related erosion hazards, and areas of mudslide (i.e., mudflow) hazards within the jurisdiction of the City.

#### **Section 20.255.030 - Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazards, areas of flood-related erosion hazards, and areas of mudslide (i.e., mudflow) hazards identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for the City of San Marcos, California," first established for this City on July 15, 1988, with accompanying Flood Insurance Rate Maps (FIRMs) and all subsequent amendments and/or revisions, on file with the City Clerk and the City Engineer, are hereby adopted by reference and declared to be a part of this chapter. The FIS and attendant mapping is the minimum area of applicability of this chapter, and may be supplemented by studies for other areas to allow implementation of this chapter and that are recommended to the City Council by the Floodplain Administrator (i.e., City Engineer). The FIS, amendment and/or revisions, and FIRMs are on file at the City Engineer's Office, 1 Civic Center Drive, San Marcos, California.

#### **Section 20.255.040 - Compliance**

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. Violations of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor and constitute a public nuisance. Nothing herein shall prevent the City from taking lawful action as is necessary to prevent or remedy any violation.

#### **Section 20.255.050 - Abrogation and Greater Restrictions**

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter,

easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **Section 20.255.060 - Interpretation**

In the interpretation and application of this chapter, all provisions shall be as follows:

- A. Considered as minimum requirements.
- B. Liberally construed in favor of the governing body.
- C. Deemed neither to limit nor repeal any other applicable provision of the Code or chapters of this Zoning Ordinance, or to conflict with any state or federal statutes.

#### **Section 20.255.070 - Warning and Disclaimer of Liability**

The degree of flood protection required in this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by built or natural features. By adoption of this chapter, the City does not imply that land outside of 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 City, any officer or employee thereof; the State of California; or FEMA for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

#### **Section 20.255.080 - Designation of the Floodplain Administrator**

The City Engineer is hereby appointed to administer and implement this chapter by granting, conditionally granting, or denying actions in accordance with its provisions.

#### **Section 20.255.090 - Duties and Responsibilities of the Floodplain Administrator**

The Floodplain Administrator (i.e., City Engineer) shall have the duties and responsibilities to do the following:

- A. **Permit Review.**
  - 1. Review all development permits to determine that the permit requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures.
  - 2. Ensure that all other required state and federal permits have been obtained.
  - 3. Ensure that the site is reasonably safe from flooding.

4. Ensure that the proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, "adversely affect" 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 within the City or adjacent communities.

5. Ensure that all Letters of Map Revision (LOMRs) 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 (CLOMRs). Approved CLOMRs allow construction of the proposed flood-control project and land preparation, as specified in the "start of construction" definition, found below.

**B. Development of Substantial Improvement and Substantial Damage Procedures.**

1. The cost of replacement of a damaged 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.

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

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

**C. Review, Use, and Development of other Base Flood Data.** When base flood elevation data has not been provided in accordance with this chapter, the Floodplain Administrator will obtain, review, and reasonably use any base flood elevation and floodway data available from a federal or state agency, or other source, to administer the regulations in this chapter. A base flood elevation shall be obtained using one (1) of two (2) methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base (100-year) Flood Elevations," dated July 1995.

**D. Notification of Other Agencies.** When any of the following occur, the described actions shall be carried out.

1. Alteration or relocation of a watercourse:

- a. Notify adjacent communities and the California Department of Water Resources prior to any alteration or relocation of a watercourse.
    - b. Submit evidence of such notification to the Federal Insurance Administration.
    - c. Ensure that the flood carrying capacity within the altered or relocated portion of said watercourse is not diminished.
  2. Base flood elevation changes due to physical alterations:
    - a. Within six (6) months of information becoming available or project completion, whichever comes first, the Floodplain Administrator shall submit or ensure that the permit applicant submits technical or scientific data to FEMA for an LOMR.
    - b. All LOMRs for flood control projects shall be approved prior to the issuance of building permits. Building permits must not be issued based on CLOMRs. Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition, found below. 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.
  3. 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 that clearly delineates the new corporate limits.
- E. **Documentation of Floodplain Development.** Obtain and maintain for public inspection and make available as needed the following:
1. Certification required by Sections 20.255.110.C.1 (Elevation and Floodproofing) and 20.255.140 (Standards for Manufactured Homes within Manufactured Home Parks or Subdivisions)
  2. Certification required by Section 20.255.110.C.2 (Elevation and Floodproofing)
  3. Certification required by Section 20.255.110.C.3 (Elevation and Floodproofing)
  4. Certification of elevation required by Section 20.255.130.A.3 (Standards for Subdivisions and Other Proposed Development)
  5. Certification required by Section 20.255.160.B (Floodway)
  6. Maintain a record of all variance actions, including justification for their issuance, and report such variances in the biennial report submitted to FEMA
- F. **Map Determination.** Make interpretations, where needed, concerning the exact location of the boundaries of the areas of special flood hazards or areas of mudslide (i.e., mudflow) where there appears to be a conflict between a

mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation, as provided in Chapter 20.500 (Permits and Applications Process).

- G. **Remedial Action.** Take action to remedy violations of this chapter as specified in Section 20.255.040 (Compliance).
- H. **Biennial Report.** Complete and submit a biennial report to FEMA.
- I. **Planning.** Ensure that the City's General Plan is consistent with the floodplain management objectives herein.

#### **Section 20.255.100 - Permit Required**

A permit shall be obtained before any construction or other development occurs, including manufactured homes, within any special flood hazard areas established in Section 20.255.030 (Basis for Establishing the Areas of Special Flood Hazard). Application for a development permit shall be made on forms furnished by the City. The applicant shall provide the following minimum information:

- A. Plans in duplicate, drawn to scale, showing all of the following:
  - 1. Location, dimensions, and elevation of the area in question, existing or proposed structures, and storage of materials and equipment and their location.
  - 2. Proposed locations of water supply, sanitary sewer, and other utilities.
  - 3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities.
  - 4. Location of the regulatory floodplain and floodway when applicable.
  - 5. Base flood elevation information as specified in Section 20.255.030 (Basis for Establishing the Areas of Special Flood Hazard) or Section 20.255.110.C (Elevation and Floodproofing).
  - 6. Proposed elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures.
  - 7. Proposed elevation, in relation to mean sea level, to which any non-residential structure will be floodproofed, as required in Section 20.255.110.C.2 (Elevation and Floodproofing) of this chapter and detailed in FEMA Technical Bulletin TB 3-93.
- B. Certification from a registered civil engineer or architect that the non-residential floodproofed building meets the floodproofing criteria in Section 20.255.110.C.2 (Elevation and Floodproofing).

- C. For a crawl-space foundation, location and total net area of foundation openings, as required in Section 20.255.110.C.3 (Elevation and Floodproofing) of this chapter and detailed in FEMA Technical Bulletins 1-93 and 7-93.
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- E. All appropriate certifications listed in Section 20.255.090.E (Documentation of Floodplain Development) of this chapter.

### **Section 20.255.110 - Standards of Construction**

Construction in all areas of special flood hazards shall comply with the standards set forth in this section.

- A. **Anchoring.** All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. **Construction Materials and Methods.** All new construction and substantial improvements of structures, including manufactured homes, shall be constructed as follows:
  - 1. With flood-resistant materials and utility equipment resistant to flood damage.
  - 2. Using methods and practices that minimize flood damage.
  - 3. With electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - 4. Within Zone AH or AO so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- C. **Elevation and Floodproofing.**
  - 1. **Residential Construction .** All new construction or substantial improvements of residential structures shall have the lowest floor, including basement, as follows:
    - a. In Zones AE, AH, and A1-30, elevated two (2) feet above the base flood elevation.

- b. In Zone AO, elevated above the highest adjacent grade to a height two (2) feet above the depth number specified in feet on the FIRM, or elevated at least four (4) feet above the highest adjacent grade if no depth number is specified.
- c. In Zone A, without base flood elevations specified on the FIRM (unnumbered Zone A), elevated two (2) feet above the base flood elevation, as determined under Section 20.255.090.C (Review, Use, and Development of other Base Flood Data).

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

**2. Non-Residential Construction .** All new construction or substantial improvements of any non-residential structures shall either be elevated to conform with Section 20.255.110.C.1 (Elevation and Floodproofing) or shall be as follows:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 20.255.110.C.1 (Elevation and Floodproofing), so that the structure is watertight, with walls substantially impermeable to the passage of water.
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- c. Be certified by a registered civil engineer or architect that the standards of Sections 20.255.110.C.2.a and b (Elevation and Floodproofing) are satisfied. Such certification shall be provided to the Floodplain Administrator.

**3. Flood Openings .** All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are useable solely for parking vehicles, building access, or storage, and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must meet the following minimum criteria:

- a. For non-engineered openings:
  - i. Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding.
  - ii. The bottom of all openings shall be no higher than one (1) foot above grade.

iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of flood water.

iv. Buildings with more than one (1) enclosed area must have openings on exterior walls for each area to allow flood water to directly enter.

*or*

b. Be certified by a registered civil engineer or architect.

**4. Manufactured Homes.**

a. Manufactured homes located outside of manufactured home parks or subdivisions shall meet the elevation and floodproofing requirements of Section 20.255.110.C (Elevation and Floodproofing).

b. Manufactured homes placed within manufactured home parks or subdivisions shall meet the standards in Section 20.255.140 (Standards for Manufactured Homes within Manufactured Home Parks or Subdivisions). Additional guidance may be found in FEMA Technical Bulletins TB 1-93 and TB 7-93.

**5. Garages and Accessory Structures .**

**a. Attached Garages**

i. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be designed to allow for the automatic entry of flood waters. See Section 20.255.110.C.3 (Elevation and Floodproofing). Areas of the garage below the base flood elevation must be constructed with flood-resistant materials. See Section 20.255.110.B (Construction Materials and Methods).

ii. A garage attached to a non-residential structure must meet the above requirements or be dry floodproofed.

**b. Detached Garages and Accessory Structures**

i. Accessory structures used solely for parking (two (2)-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 20.255.170 (Definitions), may be constructed such that its floor is below the base flood elevation, provided the structure is designed and constructed in accordance with all of the following requirements:

a. Use of the accessory structure must be limited to parking or limited storage.

- b. The portions of the accessory structure located below the base flood elevation must be built using flood-resistant materials.
- c. The accessory structure must be adequately anchored to prevent flotation, collapse, and lateral movement.
- d. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the base flood elevation.
- e. The accessory structure must comply with floodplain encroachment provisions in Section 20.255.160 (Floodway).
- f. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 20.255.110.C.3 (Elevation and Floodproofing).
- ii. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 20.255.110 (Standards of Construction).

**6. Crawlspace Construction** . This sub-section applies to buildings with crawl spaces up to two (2) feet below grade. Below-grade crawl space construction in accordance with the requirements listed below will not be considered basements.

- a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawl space construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.
- b. The crawl space is an enclosed area below the base flood elevation and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of flood waters.
- c. Crawl space construction is not permitted in V Zones. Open pile or column foundations that withstand storm surge and wave forces are required in V Zones.
- d. Portions of the building below the base flood elevation must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the base flood elevation.

- e. Any building utility systems within the crawl space must be elevated above the base flood elevation or designed so that flood waters cannot enter or accumulate within the system components during flood conditions.
- f. Requirements for all below-grade crawl space construction, in addition to the above requirements, shall include the following:
  - i. The interior grade of a crawl space below the base flood elevation must not be more than two (2) feet below the lowest adjacent exterior grade (LAG), shown as D in Figure 3 of Technical Bulletin 11-01.
  - ii. The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall, must not exceed four (4) feet (shown as L in Figure 3 of Technical Bulletin 11-01) at any point.
  - iii. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space within a reasonable period of time (not to exceed seventy-two (72) hours) after a flood event.
  - iv. The velocity of floodwaters at the site shall not exceed five (5) feet per second for any crawl space. For velocities in excess of five (5) feet per second, other foundation types shall be used.

**7. Mechanical Equipment.** All new construction and substantial improvements of structures shall ensure that all mechanical equipment complies with the following criteria:

- a. The mechanical equipment shall be elevated above the base flood elevation, or
- b. the mechanical equipment shall be designed or located in such a way as to prevent water from entering or accumulating within the components during a flood event.

#### **Section 20.255.120 - Standards for Utilities**

- A. All new and replacement water supply and sanitary sewage systems shall be designated to minimize or eliminate the following:
  - 1. infiltration of flood waters into the system and
  - 2. discharge from systems into flood waters.
- B. On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**Section 20.255.130 - Standards for Subdivisions and Other Proposed Development**

- A. All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall do the following:
  - 1. Identify the Special Flood Hazard Areas (SFHAs) and base flood elevations.
  - 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.
- E. All subdivisions and other proposed developments located within special flood hazard areas shall comply with the planning requirements set forth in this section.
  - 1. **Master Drainage Plan** . All proposed projects located within a Special Flood Hazard area shall investigate the City's Master Drainage Plan for required improvements along Special Flood Hazard Areas. If the City determines that improvements are required, the project shall construct or pay for their fair share of the required improvements.

2. **Areas of Future Drainage Projects** . For projects located within an area of Special Flood Hazard that will be affected by a future drainage project, the developer shall investigate any proposed or potential improvements required by the project to ensure that the proposed development does not encroach on areas required by the drainage improvements.

3. **Construct to Ultimate Conditions** . Projects located within an area of Special Flood Hazard shall be designed for both the interim and ultimate hydraulic buildout condition. The ultimate hydraulic buildout condition shall be determined by the City Engineer.

#### **Section 20.255.140 - Standards for Manufactured Homes within Manufactured Home Parks or Subdivisions**

All manufactured homes in special flood hazard areas shall meet the anchoring standards in Section 20.255.110.A (Anchoring), construction materials and methods requirements in Section 20.255.110.B (Construction Materials and Methods), flood openings requirements in Section 20.255.110.C.3 (Elevation and Floodproofing), and garages and low-cost accessory structure standards in Section 20.255.110.C.5 (Elevation and Floodproofing). Manufactured homes located outside of manufactured home parks or subdivisions shall meet the elevation and floodproofing requirement in Section 20.255.110.C (Elevation and Floodproofing).

A. All manufactured homes that are placed or substantially improved on sites located in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall use the following standard:

1. Within Zones A1-30, AH, and AE on the community's FIRM, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated two (2) feet above the base flood elevation and is securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1 30, AH, and AE on the community's FIRM that are not subject to the provisions of Section 20.255.140.A (Standards for Manufactured Homes within Manufactured Home Parks or Subdivisions) shall be securely fastened to an adequately anchored

foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either of the following is applied:

1. Lowest floor of the manufactured home is at or above the base flood elevation.
2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.

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

#### **Section 20.255.150 - Standards for Recreational Vehicles**

All recreational vehicles placed in Zones A1 30, AH, and AE shall apply one (1) of the following:

1. Be on the site for fewer than one hundred eighty (180) consecutive days,
2. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions), or
3. Meet the permit requirements of Section 20.255.100 (Development Permit Required) of this chapter and the elevation and anchoring requirements for manufactured homes in Section 20.255.140.A (Standards for Manufactured Homes within Manufactured Home Parks or Subdivisions).

#### **Section 20.255.160 - Floodway**

Since floodways are an extremely hazardous area due to the velocity of flood waters and related debris, potential projectiles, and erosion potential, the following provisions apply:

- A. 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 one (1) foot at any point within the City.

- B. Within an adopted regulatory floodway, the City shall prohibit all encroachments, including fill, new construction, substantial improvements, and other development, in all areas of the floodway, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- C. If Sections 20.255.160.A and B (Floodway) are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard-reduction provisions of this chapter.

#### **Section 20.255.170 Definitions**

A. **A Zone/Zone A.** See Special Flood Hazard Area.

B. **Accessory Structure, Low-Cost and Small.** A structure located on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. This may include a structure that meets the following criteria.

1. solely for parking of no more than two (2) cars or limited storage (small, low-cost sheds) and
2. less than one hundred fifty (150) square feet and \$1,500.00 in value.

C. **Alluvial Fan.** A geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that has been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floor and that is subject to flash flooding, high-velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

D. **Apex.** A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

E. **Appeal.** A request for a review of the Floodplain Administrator's interpretation of this chapter or a request for a variance.

F. **Area of Shallow Flooding.** Designated Zone AO, AH, or VO on the Flood Insurance Rate Map (FIRM) where the base flood depths range from one (1) to three (3) feet, a clearly defined channel does not exist, the path of flooding is unpredictable

and indeterminate, and areas of channelized or velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**G. Base Flood.** A flood that has a one percent (1%) chance of being equaled or exceeded in any given year (also called the "100-year flood" or the 0.01 annual exceedance probability [AEP] flood). Base flood is the term used throughout this chapter.

**H. Base Flood Elevation.** The elevation shown on the FIRM for Zones AE, AH, A1-30, VE, and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent (1%) or greater chance of being equaled or exceeded in any given year.

**I. Basement.** Any area of the building having its floor subgrade (i.e., below ground level) on all sides.

**J. Building.** See Structure.

**K. Development.** Any built/created (not natural) change to improved or unimproved real estate, including buildings and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.

**L. Encroachment.** The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures, or development into a floodplain that may impede or alter the flow capacity of a floodplain.

**M. Existing Manufactured Home Park or Subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before October 24, 1978.

**N. Expansion to an Existing Manufactured Home Park or Subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**O. Flood, Flooding, or Flood Water.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, the unusual and rapid accumulation or runoff of surface waters from any

source and/or mudslides (i.e., mudflows), and the condition resulting from flood-related erosion.

**P. Flood Insurance Rate Map (FIRM).** The official map on which FEMA or the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium Zones applicable to the community.

**Q. Flood Insurance Study.** The official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

**R. Floodplain or Flood-prone Area.** Any land area susceptible to being inundated by water from any source. See Flood, Flooding, or Flood Water.

**S. Floodplain Administrator.** The City Engineer; the community official designated by title to administer and enforce the floodplain management regulations.

**T. Floodplain Management.** Operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**U. Floodplain Management Regulations.** This chapter and other zoning requirements, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other application of police power that control development in flood-prone areas. This term describes federal, state, and local regulations in any combination thereof that provide standards for preventing and reducing flood loss and damage.

**V. Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

**W. Floodway or Regulatory Floodway.** The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**X. Floodway Fringe.** That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.

**Y. Functionally Dependent Use.** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

**Z. Governing Body.** The local governing unit (i.e., county or municipality) that is empowered to adopt and implement regulations to provide for the public health, safety, and general welfare of its citizenry.

**AA. Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**BB. Historic Structure.** Any structure that is any of the following:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register of Historic Places;
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 of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the 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 with approved programs.

**CC. Lowest Floor.** The lowest floor of the lowest enclosed area (including basement).

1. An unfinished or flood-resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided it conforms to applicable non-elevation design requirements, including the following:
  - a. The flood openings standard in Section 20.255.110.C.3 (Elevation and Floodproofing),

- b. The anchoring standards in Section 20.255.110.A (Anchoring),
- c. The construction materials and methods standards in Section 20.255.110.B (Construction Materials and Methods), and
- d. The standards for utilities in Section 20.255.120 (Standards for Utilities).

**DD. Mean Sea Level.** The datum by which base flood elevations shown on a community's FIRM are referenced.

**EE. Manufactured home.** 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".

**FF. Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**~~EE~~GG. New Construction.** For floodplain management purposes, structures for which the "start of construction" commenced on or after October 24, 1978, and including any subsequent improvements to such structures.

**~~FF~~HH. New Manufactured Home Park or Subdivision.** 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 October 24, 1978.

**~~GG~~II. Obstruction.** Includes 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 that may alter, impede, retard, or change the direction and/or velocity of the flow of water or, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood to be carried downstream.

**JJ. "Recreational vehicle".** A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**~~HH~~KK. Riverine.** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**~~LL~~ Special Flood Hazard Area (SFHA).** An area in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on a Flood Hazard Boundary Map (FHBM) or FIRM as Zone A, AO, A1-A30, AE, A99, E, M, or AH. Also includes those areas identified by the State of California Department of Water Resources as being subject to one-half of one percent (0.5%) or greater chance of flooding in any given year.

**~~MM~~ Start of Construction.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, or filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, 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.

**~~KK~~ Structure.** A walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

**~~LL~~ Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. Flood-related damages sustained by a structure on two (2) separate occasions during a ten (10)-year period for which the cost of repairs at the time of each such event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred. This is also known as “repetitive loss.”

**~~MM~~ Substantial Improvement.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either of the following:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to ensure safe living conditions; or

2. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

**~~NN~~QQ. Violation.** 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.

**~~OO~~RR. Water Surface Elevation.** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**~~PP~~SS. Watercourse.** A lake, river, creek, stream, wash, arroyo, channel, or other topographic feature on or over which waters flow at least periodically. Watercourses include specifically designated areas in which substantial flood damage may occur.

#### **Section 20.255.180 Variances**

**All variances are subject to the standards and process set forth in the Municipal Code Sections 20.525.070 through 20.525.090.**

### **CHAPTER 20.525 Variances**

#### **Section 20.525.010 - Purpose and Intent**

The Variance criteria set forth in this chapter are based on the general principle of zoning law that Variances pertain to a piece of property and are not personal. A Variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of the Zoning Ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

The sole purpose of any Variance shall be to prevent discrimination, and no Variance shall be granted that would have the effect of granting a special privilege not shared by other property in the same vicinity and Zone. The intent is to avoid practical difficulties, unnecessary hardship, or results inconsistent with the general purposes of this Zoning Ordinance.

#### **Section 20.525.020 - Applicability**

A Variance may be granted to allow the following:

A. A reduction or variation in setback regulations; parking and/or loading regulations; front, side, and rear yard regulations; height regulations; and the expansion, extension, alteration, or relocation of nonconforming buildings and uses.

B. A change in the required location of accessory buildings and uses, and the building site front.

C. A reduction or variation in area regulations including limitations on the area covered by accessory buildings.

D. The reestablishment of nonconforming uses consistent with Chapter 20.345 (Nonconforming Uses and Structures).

E. Where a lot is divided among two (2) or more Zones, a Variance may be granted to extend the uses permitted in any one (1) of the Zones to include the entire lot, provided the area so changed does not exceed one-half (0.5) acre and provided such lot was held in a single ownership at the time it was so divided among two (2) or more Zones.

#### **Section 20.525.030 - Application**

A. **Initiation of Application** . An application for a Variance may be made by a property owner or by a lessee with the property owner's consent. The applicant shall submit an application in accordance with the format specified by the Director. Fees shall be paid at the time of application in accordance with the Fee Schedule. An application for an Administrative Variance shall also be accompanied by the following:

1. A written consent signed by the owner or owners of each lot or parcel adjoining the site of the proposed building or structure, and the owner or owners of land across any street from such site.
2. Complete plans and description of the property involved and the proposed use.
3. Evidence, satisfactory to the Director, of the ability and intention of the applicant to proceed with actual construction work in accordance with said plans within six (6) months after issuance of the Variance.

B. **Fees** . Fees shall be paid at the time of application in accordance with the Fee Schedule.

1. Upon the written request of an applicant, when the Planning Commission or the City Council finds that the necessity for a Variance is the result of the dedication or granting (without receipt of substantial monetary consideration)

of a portion of the property for a public purpose, said Planning Commission or City Council may waive the fee for filing the application for Variance.

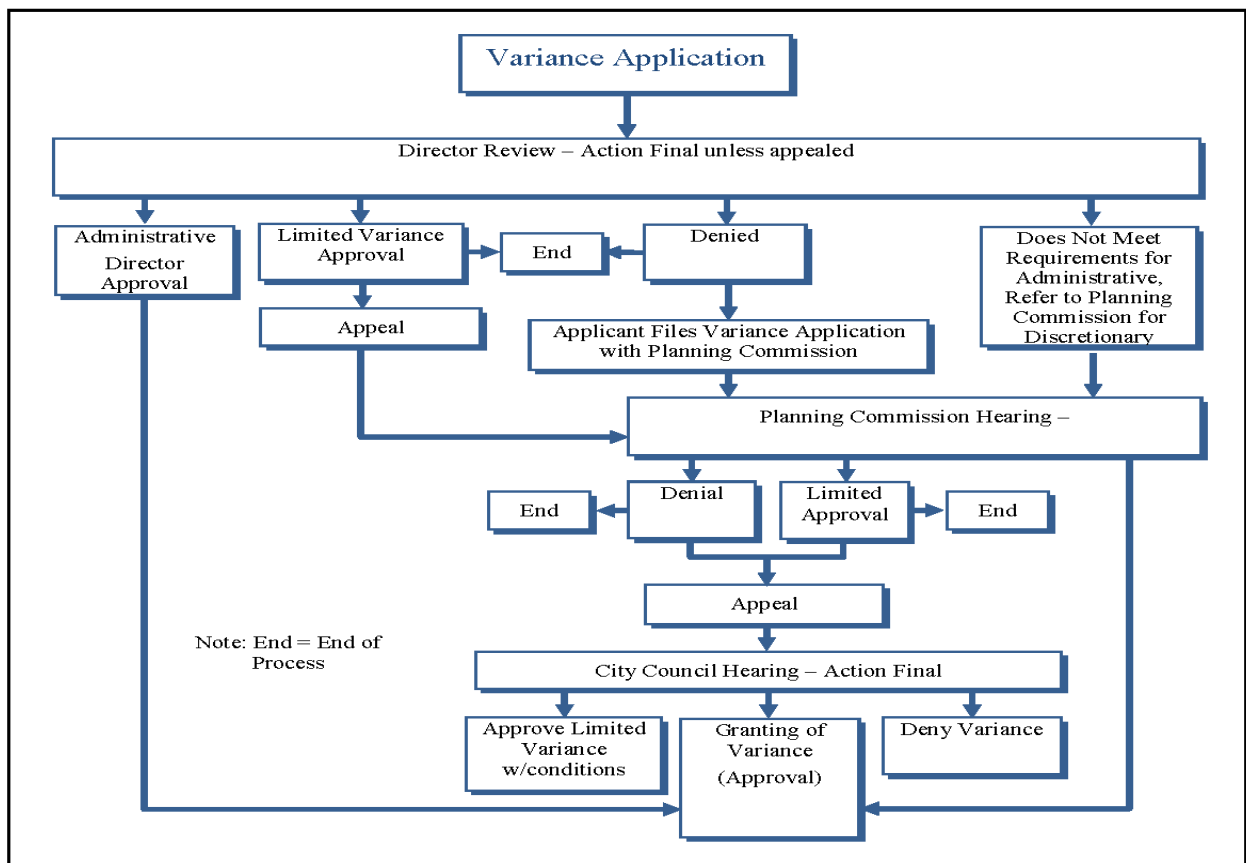
**C. Processing.** The administrative and discretionary processes for Variance applications is generally illustrated in Figure 20.525-1, "Variance Process." When an application is deemed complete, the Director shall give public notice and a hearing or hearings shall be held as provided in Chapter 20.505 (Noticing and Public Hearings).

#### **Section 20.525.040 - Required Findings**

Before any Variance may be granted, written findings shall be made by the approving body:

- A. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of use in the same vicinity and Zone.
- B. That the Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and Zone, and denied to the property for which the Variance is sought.
- C. That the granting of the Variance will not be materially detrimental to the public health, safety, or welfare or injurious to the property or improvement in such vicinity and Zone in which the property is located.
- D. That the granting of such Variance will not adversely affect any master or precise plan adopted pursuant to law.

**Figure 20.525-1 Variance Process**



## Section 20.525.050 - Decision

### A. Administrative Variance Hardship.

1. The Director shall review variance applications for site conditions making compliance with standard applicable zoning requirements impossible without difficulty or hardship. The Director may approve the Variance application without notice or hearing if the following conditions are found by the Director:
  - a. Hardship due to site conditions exists,
  - b. The Variance application meets the requirements of Section 20.525.040 (Required Findings), and
  - c. The requested modification reduces required setbacks by twenty-five percent (25%) or less.

2. Approval of the Variance based on these findings shall be considered granting of the Variance and building permits, subject to review, may be issued.

3. If the Variance is denied by the Director pursuant to this section, the applicant may file a Variance application with the Planning Commission within sixty (60) days of initial application. No fee shall be charged for the second application.

**B. Discretionary (Planning Commission) Variances.** If the Director determines that an application for a Variance does not meet the requirements of Section 20.525.050 (Decision), the application shall be referred to the Planning Commission. Noticing and a hearing or hearings shall be held in accordance with Chapter 20.505 (Noticing and Public Hearings).

**C. Conditions and Limitations .** Variances may be granted upon such conditions and limitations and for such periods of time as the Director, Planning Commission, or the City Council shall deem to be reasonable and necessary or advisable under the circumstances so that the objectives of this Zoning Ordinance shall be achieved.

**D. Final Decision .** The decision granting or denying the Variance, with or without conditions, shall become final unless an appeal is filed.

**E. Applicant Action .** Where the applicant is granted a more limited Variance than for which the application is made or imposes condition on the Variance, the applicant may decline to accept the Variance as granted and may appeal the decision.

### **Section 20.525.060 - Appeals**

All appeals shall be subject to the standards and process of Chapter 20.545 (Appeals and Revocations).

### **Section 20.525.070 - Floodplain Management Variances**

Issuance of a Floodplain Management Variance shall be for the purposes of floodplain management for the public good only. The purpose and intent is as described in Section 20.525.010. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a Variance.

It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that Variances from the flood elevation or from other requirements of Chapter 20.255 (Flood Damage Prevention Zone) are quite rare. The long-term goal of preventing

and reducing flood loss and damage can only be met if Variances are strictly limited. Therefore, the Variance guidelines of this section are more detailed than the standard Variance application and contain multiple provisions that must be met before a Floodplain Management Variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a Variance are more appropriate.

#### **Section 20.525.080 - Conditions for Floodplain Management Variances**

A. Variances shall not be issued to permit the construction of new structures below the base flood elevation.

B. Variances may be issued for the reconstruction, rehabilitation, or restoration of "historic structures" listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair 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.

C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the Variance is the "minimum necessary," considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of Variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation that the City Council believes will both provide relief and preserve the integrity of the local requirements.

E. Any applicant to whom a Variance is granted shall be given written notice by a City Official that:

1. The issuance of a Variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and
2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County of San Diego Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

F. The Floodplain Administrator will maintain a record of all Variance actions, including justification for their issuance, and report such Variances issued in its biennial report submitted to FEMA.

### **Section 20.525.090 - Floodplain Management Appeal Board**

A. The City Council shall hear and decide appeals and requests for Variances from the requirements of Chapter 20.255 (Flood Damage Prevention Zone).

B. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination and by the Floodplain Administrator in the enforcement or administration of Chapter 20.255.

C. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, and standards specified in Chapter 20.255 (Flood Damage Prevention Zone), and the following:

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 existing individual owner and future owners of the property;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use 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 comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges.

D. Variances shall only be issued upon a:

1. Showing of good and sufficient cause; and
2. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and
3. Determination that the granting of a variance will not result in increased flood

heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see Public safety and nuisance), cause fraud and victimization of the public, or conflict with existing local laws or ordinances.

E. Variances may be issued for substantial improvements for the conduct of a functionally dependent use provided that the provisions of Sections 20.525.090.C through 20.525.90.F are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

~~D~~F. Upon consideration of the facts of Section 20.525.090.C (Floodplain Management Appeal Board) and the purposes of Chapter 20.255 (Flood Damage Prevention Zone), in the event the City Council determines that a Variance shall be granted, it may attach such conditions to the granting of Variances as it deems necessary to further the purposes of Chapter 20.255 (Flood Damage Prevention Zone).

3. The project exemption (EX 19-009) from CEQA pursuant to Section 15378 of the CEQA Guidelines and/or Section 15061(b)(3) is hereby recommended to the City Council for approval.

PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, at a regular meeting held on this 1<sup>st</sup> day of April, 2019, by the following roll call vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSENT: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:

APPROVED:

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Kevin Norris, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

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Gina Henderson, Senior Office Specialist  
SAN MARCOS CITY PLANNING COMMISSION