

TO: James L. App, City Manager
FROM: Ron Whisenand, Director of Community Development
SUBJECT: Code Amendment 08-001, Floodplain Management Ordinance
DATE: July 15, 2008

Needs: That the City Council consider adopting revisions to Chapter 21.14 of the Zoning Code updating the Floodplain Management Ordinance.

- Facts:**
1. Ordinance No. 405 adopted June 30, 1977 was the first modern comprehensive flood plain management ordinance.
 2. The Floodplain Management Ordinance was updated in 1982, 1988 and again in 1997.
 3. In February 2007, the City received a letter from the Federal Emergency Management Agency (FEMA) advising that the City's floodplain ordinance needs to be updated to comply with the most recent regulations included in the National Flood Insurance Program.
 4. In June 2007, the City retained Rick Engineering of San Diego to prepare a draft floodplain ordinance. The draft was prepared and submitted to FEMA for review.
 5. In March 2008, FEMA acknowledged that the draft flood plain ordinance met all of their requirements.
 6. At its meeting of June 24, 2008, the Planning Commission considered this code amendment and recommended that the City Council adopt the proposed ordinance.
 7. At its meeting of July 1, 2008, the City Council opened and continued a public hearing on the proposed code amendments to July 15, 2008.
 8. The proposed amendments to the Floodplain Management Ordinance are mandated by FEMA as conditions for participation in the National Flood Insurance Program. The City has no discretion over the changes and the code amendment is considered to be a "ministerial" project, which is statutorily exempt from the California Environmental Quality Act per Public Resources Code Section 21080.

**Analysis
and**

Conclusion: The Zoning Code has included a comprehensive flood management ordinance since 1977. The revised ordinance, which implements the most recent FEMA flood plain standards:

- Establishes the Community Development Director as the floodplain administrator
- References the most current updates of FEMA’s flood hazard maps;
- Provides new definitions for “substantial damage” and “substantial improvement”;
- Provides that Letters of Map Revisions (LOMRs) must be approved by FEMA prior to issuance of building permits
- Provides new regulations for elevation certificates;
- Provides the City will be responsible for maintaining a record of all certificates issued; and
- Updates specifications for construction in flood zones.

The attached revised floodplain management ordinance is in “legislative” format and shows additions and deletions from the current ordinance.

Policy

Reference: City Municipal Code Chapter 21.14; Public Resources Code Section 21080

Fiscal

Impact: None.

Options:

- a. Introduce for first reading Ordinance No. xxx amending Municipal Code Section 21.14 to conform to the National Flood Insurance Program, and set August 5, 2008 for adoption; or
- b. Amend, modify or reject the above option.

Attachment 1: Ordinance Amending Chapter 21.14 of the Municipal Code (Floodplain Management)

Attachment 2: Affidavit

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING

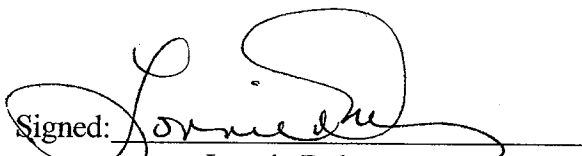
Newspaper: Tribune

Date of Publication: June 11, 2008

Hearing Date: June 24, 2008

Project: Code Amendment 08-001
(City initiated – updating Flood
Plain ordinance to conform to
Nat'l. Flood Ins. Program)

I, Lonnie Dolan, employee of the Community
Development Department, Planning Division, of the City
of El Paso de Robles, do hereby certify that this notice is
a true copy of a published legal newspaper notice for the
above named project.

Signed: 
Lonnie Dolan

forms/newsaffi.691

**CITY OF EL PASO DE ROBLES
NOTICE OF PUBLIC HEARING**

**NOTICE OF INTENT TO CONSIDER
A CODE AMENDMENT (08-001)**

NOTICE IS HEREBY GIVEN that the City of El Paso de Robles will hold two Public Hearings to consider a Code Amendment.

The Planning Commission will consider this item at a Public Hearing on Tuesday, June 24, 2008, and the City Council will consider this item and introduce the Zoning Amendment at a Public Hearing on July 1, 2008. Both meetings will be held at 7:30 p.m. at the City of El Paso de Robles, 1000 Spring Street, Paso Robles, California, in the City Council Chambers.

The two hearings will consider the following project:

Code Amendment 08-001: A City-initiated Code Amendment to comply with a letter sent from the Federal Emergency Management Agency (FEMA) advising that the City's floodplain ordinance needs to be updated to conform to the most recent regulations included in the National Flood Insurance Program. The proposed amendments to the Floodplain Management Ordinance are mandated by FEMA as conditions for participation in the National Flood Insurance Program.

The proposed Code Amendment to be considered is a "ministerial" project, which is statutorily exempt from the California Environmental Quality Act per Public Resources Code Section 21080 for the reason that the City has no discretion over the changes.

Written comments on the proposed Code Amendment may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446, provided that the comments are received prior to the time of the public hearing. Oral comments may be made at the hearing. Should you have any questions regarding this application, please call Ed Gallagher at (805) 237-3970.

If you challenge the Code Amendment application in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice, or in written correspondence delivered to the Planning Commission or City Council at or prior to the public hearing.

Ed Gallagher
City Planner
June 11, 2008

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Attachment 2:
Affidavit

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Notes on Changes:

1. Additions are denoted in ***bold, italicized*** text; deletions are denoted in ~~double strikethrough~~ text.
2. The old Section 21.14.260 has become the new Section 21.14.270 and vice versa. Some subsections from both of these sections have been taken from one section and placed in the other. Since the provisions of these subsections were basically retained, this “legislative” version of the ordinance does not show them as additions and deletions.

21.14.010 Statutory authorization.

The Legislature of the state of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the ***City Council of the*** City of El Paso de Robles, ~~county of San Luis Obispo~~ does adopt the following floodplain management regulations.

21.14.020 Findings of fact.

- A. The flood hazard areas of the City of El Paso de Robles are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to ~~the flood loss~~ ***losses***.

21.14.030 Statement of purpose.

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

- A. Protect human life and health;

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- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. 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;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

21.14.040 Methods of reducing flood losses.

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

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

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21.14.050 Definitions.

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

"A zone" - see "Special flood hazard area".

"Accessory structure" means a structure that is either:

- 1. Solely for the parking of no more than 2 cars; or*
- 2. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.*

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

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

~~"Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.~~
or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this chapter.

"Area of shallow flooding" means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

~~"Area of special flood related erosion hazard" means the land within a community which is most likely to be subject to severe flood related erosion losses. The area may be designated as zone E on the flood insurance rate map (FIRM).~~

"Area of special flood hazard. See "special flood hazard area."

~~"Area of special mudslide (i.e., mudflow) hazard" means the area subject to severe mudslides (i.e., mudflows). The area is designated as zone M on the flood insurance rate map (FIRM).~~

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“Base flood” means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the “one-hundred-year flood”). Base flood is the term used throughout this chapter.

“Base flood elevation” (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

“Building.” See “structure.”

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

“Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before ~~the effective date of the floodplain management regulations adopted by a community.~~ **June 30, 1977.**

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood, flooding, or flood water” means:

1. 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), see “mudslides”; and
2. The condition resulting from flood-related erosion, see “flood-related erosion.”

“Flood boundary and floodway map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

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“Flood hazard boundary map” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood insurance rate map, the flood boundary and floodway map, and the water surface elevation of the base flood.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source, see “Flooding.”

“Floodplain administrator” is the *community* individual appointed *by title* to administer and enforce the floodplain management regulations.

“Floodplain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain management regulations” means this chapter and other zoning ordinances, subdivision regulations building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

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

~~“Flood related erosion” means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.~~

~~“Flood related erosion area” or “flood related erosion prone area” means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind driven currents, is likely to suffer flood related erosion damage.~~

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~~“Flood-related erosion area management” means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.~~

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway.”

“Floodway fringe” is that area of the floodplain on either side of the “regulatory floodway” where encroachment may be permitted.

“Fraud and victimization” as related to Sections 21.14.250 through 21.14.270 of this chapter means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the ~~city of El Paso de Robles~~ **City Council** will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

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

“Governing body” is 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.

“Hardship” as related to Sections 21.14.250 through 21.14.270 of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The ~~city of El Paso de Robles~~ **City Council** requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

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“Historic structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

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

“Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement (see “basement” definition).

1. An unfinished or flood resistant enclosure below the lowest floor 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 nonelevation design requirements including, but not limited to:
 - a. The ~~wet floodproofing~~ **flood opening** standards in **Subsection C.3 of** Section 21.14.170 of this chapter;
 - b. The anchoring standards in **Subsection A of** Section 21.14.170 of this chapter;
 - c. The construction materials and methods standards in **Subsection B of** Section 21.14.170 of this chapter;
 - d. The standards for utilities in Section 21.14.180 of this chapter.

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- ~~2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see “basement” definition). This prohibition includes below grade garages and storage areas.~~

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“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” shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed.

- 1. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry.*
- 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 forms of external obsolescence.*

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

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

~~“Mudslide” (i.e., mudflow) describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.~~

~~“Mudslide (i.e., mudflow) prone area” means an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.~~

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“New construction,” for floodplain management purposes, means structures for which the “start of construction” commenced on or after ~~the effective date of floodplain management regulations adopted by this community~~ **June 30, 1977**, 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) is completed on or after ~~the effective date of floodplain management regulations adopted by this community~~ **June 30, 1977**.

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

“One Hundred Year Flood”. See “base flood.”

“Program deficiency” means a defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

“Public safety and nuisance” as related to Sections 21.14.250 ~~and~~ **through** 21.14.270 of this chapter means that the granting of a variance must not result in anything 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.

“Recreational vehicle” means a vehicle which is:

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

“Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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“Remedy a violation” means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

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

Sheet Flow Area. See “area of shallow flooding.”

“Special flood hazard area (SFHA)” means an area ~~having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99, AH, E or M.~~ ***in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.***

“Start of construction” includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include ***preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include*** excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

“Substantial damage” means:

1. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred; ***or***
2. ***Flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such***

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event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. This is also known as “repetitive loss.”

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other ~~proposed new development~~ **improvement** of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

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

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

“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum. (NGVD) of 1929, *North American Vertical Datum (NAVD) of 1988*, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

21.14.060 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of El Paso de Robles.

21.14.070 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the ~~Federal Insurance Administration (FIA)~~ of the Federal Emergency Management Agency (FEMA) in the flood insurance study (FIS) *for City of El Paso de Robles, California (San Luis Obispo County)* dated March 16, 1981 ~~with and~~

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accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), dated September *16*, 1981, and all subsequent amendments and/or revisions, 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 which allow implementation of this chapter and which are recommended to the city council by the floodplain administrator. The study, FIRMs and FBFMs are on file at *the Office of the City Engineer, City Hall, located at* 1000 Spring Street, El Paso de Robles, CA *93446*.

21.14.080 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. Violation of the requirements (including violations of conditions and safeguards ~~established in connection with conditions~~) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.

21.14.090 Abrogation and greater restrictions.

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

21.14.100 Interpretation.

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Viewed neither to limit nor repeal any other powers granted under state statutes.

21.14.110 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of 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 of El Paso de Robles~~ *City Council*, any of officer or employee

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thereof, the state of California, or ~~the Federal Insurance Administration,~~ Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

21.14.120 Severability.

This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

21.14.130 Establishment of development permit.

A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 21.14.070 of this chapter. Application for a development permit shall be made on forms furnished by the ~~floodplain administrator~~ *City of El Paso de Robles.* ~~and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:~~ *The applicant shall provide the following minimum information:*

~~A. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures, in zone AO elevation of highest adjacent grade and proposed elevation of lowest floor of all structures; or~~

A. *Plans in duplicate, drawn to scale, showing:*

1. *Location, dimensions, and elevation of the area in question, existing or proposed structures, 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 floodway when applicable;*
5. *Base flood elevation information as specified in Section 21.14.070 or Subsection C of Section 21.14.150 of this chapter;*
6. *Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and*

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7. *Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Subsection C.2 of Section 21.14.170 of this chapter and detailed in FEMA Technical Bulletin TB 3-93.*

~~B. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, if required in Section 21.14.170 of this chapter; and~~

B. *Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Subsection C.2 of Section 21.14.170 of this chapter.*

~~C. All appropriate certifications listed in Section 21.14.150 of this chapter; and~~

C. *For a crawl-space foundation, location and total net area of foundation openings as required in Subsection C.3 of Section 21.14.170 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 Subsection E of Section 21.14.150 of this chapter.*

21.14.140 Designation of the floodplain administrator.

The ~~city engineer~~ **Community Development Director** is appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions.

21.14.150 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to the following.

A. Permit Review. Review all development permits to determine ~~that~~:

1. Permit requirements of this chapter have been satisfied, *including determination of substantial improvement and substantial damage of existing structures;*
2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding; and
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not

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been designated. ~~For purposes of this chapter, “adversely affects”~~ *This* means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point *within the City of El Paso de Robles; and*

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

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

1. *Using FEMA publication FEMA 213, “Answers to Questions About Substantially Damaged Buildings,” develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining “Market Value.”*
2. *Assure procedures are coordinated with other departments/divisions and implemented by community staff.*

~~B=~~ C. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 21.14.070 of this chapter, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 21.14.170 through 21.14.240 ~~220~~ of this chapter. ~~Any such information shall be submitted to the city council for adoption.~~

NOTE: A base flood elevation shall be obtained using one of two 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.

~~C=~~ D. Notification of Other Agencies.

1. In alteration or relocation of a watercourse:
 - ~~1=~~ a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - ~~2=~~ b. Submit evidence of such notification to the ~~Federal Insurance Administration~~, Federal Emergency Management Agency; and
 - ~~3=~~ c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

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2. *Base Flood Elevation changes due to physical alterations:*
 - a. *Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).*
 - b. *All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.*

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

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 clearly delineating the new corporate limits.*

~~D~~ E. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by *Subsection C.1 of* Section 21.14.170 *and Section 21.14.200* of this chapter (lowest floor elevations);
2. Certification required by *Subsection C.2 of* Section 21.14.170 of this chapter (elevation or flood proofing of nonresidential structures);
3. Certification required by *Subsection C.3 of* Sections 21.14.170 of this chapter (wet floodproofing standard);
4. Certification of elevation required by *Subsection A.3 of* Section 21.14.190 of this chapter (subdivisions *and other proposed development* standards);
5. Certification required by *Subsection B of* Section 21.14.220 of this chapter (floodway encroachments); *and*
6. ~~Reports required by Section 21.14.230 of this chapter (mudflow standards).~~ *Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.*

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- ~~F.~~ **F.** Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, ~~for example,~~ 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 **Section 21.14.160** ~~Sections 21.14.150 through 21.14.270~~ of this chapter.
- ~~G.~~ **G.** Remedial Action. Take action to remedy violations of this chapter as specified in Section 21.14.080 of this chapter.
- H.** *Biennial Report. Complete and submit Biennial Report to FEMA.*
- I.** *Planning. Assure community's General Plan is consistent with floodplain management objectives herein.*

21.14.160 Appeals.

The city council of the city of El Paso de Robles shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.

21.14.170 Standards of construction.

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

- A. Anchoring.
 - ~~1.~~ All new construction and substantial improvements, *including manufactured homes*, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - ~~2.~~ ~~All manufactured homes shall meet the anchoring standards of Section 21.14.200 of this chapter.~~
- B. Construction Materials and Methods. All new construction and substantial improvement *of structures, including manufactured homes*, shall be constructed:
 - 1. ~~With materials and utility equipment resistant to flood damage;~~ *With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;*
 - 2. Using methods and practices that minimize flood damage;

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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; and ~~if~~
 4. Within zones 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 flood proofing ~~(See Section 21.14.050 of this chapter, Definitions, for “basement,” “lowest floor,” “new construction,” “substantial damage,” and “substantial improvement.”)~~
1. Residential construction: *All new construction or substantial improvements of residential structures*, shall have the lowest floor, including basement:
 - ~~a. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified. (The state of California recommends that the lowest floor be elevated above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.)~~
 - a. *In AE, AH, A1-30 Zones, elevated 2 feet above the base flood elevation.*
 - ~~b. In an A zone, elevated to or above the base flood elevation, as determined by floodplain administrator. (The state of California recommends the lowest floor be elevated at least one foot above the base flood elevation, as determined by the city of El Paso de Robles.)~~
 - b. *In an AO zone, elevated above the highest adjacent grade to a height 2 feet above the depth number specified in feet on the FIRM, or elevated at least 4 feet above the highest adjacent grade if no depth number is specified.*
 - ~~e. In all other zones, elevated to or above the base flood elevation. (The state of California recommends the lowest floor be elevated at least one foot above the base flood elevation.)~~

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

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- c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated 2 feet above the base flood elevation; as determined under Section 4.2.C. Upon the 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. Nonresidential construction: *All new construction* or substantial improvements of *nonresidential structures*, shall either be elevated to conform with *Subsection C.1 of* this section or ~~together with attendant utility and sanitary facilities:~~

 - a. Be floodproofed below the elevation recommended under *Subsection C.1 of* this section so that the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the standards of *Subsections C.2, a and b of* this section 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 usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

 - ~~a. Be certified by a registered professional engineer or architect; or~~
 - ~~b. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.~~
 - a. *For non-engineered openings:*

 - 1. *Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;*

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2. *The bottom of all openings shall be no higher than one foot above grade;*
 3. *Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and*
 4. *Buildings with more than one 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: shall ~~also~~ meet the standards in Section 21.14.200 of this chapter.
 5. *Garages and low cost accessory structures.*
 - a. Attached garages.*
 1. *A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Subsection C.3 of this section. Areas of the garage below the BFE must be constructed with flood resistant materials. See Subsection B of this section.*
 2. *A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.*
 - b. Detached garages and accessory structures.*
 1. *“Accessory structures” used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 21.14.050, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with 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 BFE must be built using flood-resistant materials;*

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- 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 BFE;*
 - e) *The accessory structure must comply with floodplain encroachment provisions in Section 21.14.220; and*
 - f) *The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Subsection C.3 of Section 21.14.170.*
2. *Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 21.14.170.*
6. *Crawlspace construction. This sub-section applies to buildings with crawl spaces up to 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 floatation, 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 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 BFE and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. For guidance on flood openings, see FEMA Technical Bulletin 1-93;*
 - 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 BFE 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 BFE; and*

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- e. Any building utility systems within the crawl space must be elevated above BFE or designed so that floodwaters 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, to include the following:*
 - 1. The interior grade of a crawl space below the BFE must not be more than 2 feet below the lowest adjacent exterior grade (LAG), shown as D in figure 3 of Technical Bulletin 11-01;*

 - 2. 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 4 feet (shown as L in figure 3 of Technical Bulletin 11-01) at any point;*

 - 3. There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space within a reasonable period of time after a flood event, not to exceed 72 hours; and*

 - 4. The velocity of floodwaters at the site should not exceed 5 feet per second for any crawl space. For velocities in excess of 5 feet per second, other foundation types should be used.*

21.14.180 Standards for utilities.

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - 1. Infiltration of flood waters into the systems; and
 - 2. Discharge from the systems into flood hazards.

- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

21.14.190 Standards for subdivisions and other proposed development.

- A. All preliminary new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:

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1. Identify the ~~flood hazard area and the elevation of the base flood~~ ***Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).***
2. ***Identify the elevations of lowest floors of all proposed structures and pads on the final plans.***
3. ***If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMRF) to the Floodplain Administrator:***
 - a. ***Lowest floor elevation.***
 - b. ***Pad elevation.***
 - c. ***Lowest adjacent grade.***

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

~~B.~~ ***B.*** All subdivision proposals ***and other proposed development*** shall be consistent with the need to minimize flood damage.

~~C.~~ ***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.~~ ***D.*** All subdivisions ***and other proposed development*** shall provide adequate drainage to reduce exposure to flood hazards.

21.14.200 Standards for manufactured homes.

A. All manufactured homes that are placed or substantially improved, ~~within zones AI 30, AH, and AE on the city's flood insurance rate map,~~ on sites located:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood,

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*shall, within Zones AI-30, AH, and AE on the community's Flood Insurance Rate Map, All manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to ~~at or~~ **2 feet** above the base flood elevation (~~the state of California recommends at least one foot above the base flood elevation~~) and be securely ~~anchored~~ **fastened** to an adequately ~~fastened~~ **anchored** foundation system to resist flotation, collapse and lateral movement.*

~~B. All manufactured homes that are placed or substantially improved on sites located within zones VI-30, V, and VE on the community's flood insurance rate map will meet the requirements of Section 21.14.210 of this chapter.~~

€ B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones AI-30, AH, *and* AE, ~~VI-30, V, and VE~~ on the community's flood insurance rate map that are not subject to the provisions of *Subsection A of this* section ~~21.14.210~~ of this chapter will be securely fastened to an adequately anchored foundation system to resist flotation collapse, and lateral movement, and be elevated so that either the:

1. Lowest floor of the manufactured home is at ~~at or~~ **least 2 feet** above the base flood elevation (~~the state of California recommends at least one foot above the base flood elevation~~); or
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 inches in height above grade.

Upon the 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.

21.14.210 Standards for recreational vehicles.

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

1. Be on the site for fewer than one hundred eighty consecutive days ~~and~~; *or*
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

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~~2.3.~~ Meet the permit requirements of Section 21.14.130 ~~through 21.14.160~~ of this chapter and the elevation and anchoring requirements for manufactured homes in *Subsection A* of Section 21.14.200 of this chapter.

~~B. Recreation vehicles placed on sites within zones VI-30, V, and VE on the community's flood insurance rate map will meet the requirements of this section.~~

21.14.220 Floodways.

~~Located within areas of special flood hazard established in Section 21.14.070 of this chapter are areas designated as floodways. Since the floodways ~~is~~ *are* an extremely hazardous area due to the velocity of flood waters which carry 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 1 foot at any point within the City of El Paso de Robles.

~~A. B.~~ *Within an adopted regulatory floodway, the City of El Paso de Robles shall prohibit encroachments, including fill, new construction, substantial improvements, and other ~~new~~ development unless certification by a registered ~~professional-civil engineer or architect~~ is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge.*

~~B. C.~~ *If *Subsections A and B* of this section ~~is~~ *are* satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 21.14.170 through 21.14.240 220 of this chapter.*

~~**21.14.230 Mudslide (i.e., mudflow) prone areas.**~~

~~A. The floodplain administrator shall review permits for proposed construction of other development to determine if it is proposed within a mudslide area.~~

~~B. Permits shall be reviewed to determine that the proposed site and improvement will be reasonably safe from mudslide hazards. Factors to be considered in making this determination include but are not limited to the:~~

- ~~1. Type and quality of soils;~~
- ~~2. Evidence of ground water or surface water problems;~~
- ~~3. Depth and quality of any fill;~~
- ~~4. Overall slope of the site; and~~
- ~~5. Weight that any proposed development will impose on the slope.~~

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~~C. Within areas which may have mudslide hazards, the floodplain administration shall require that:~~

- ~~1. A site investigation and further review be made by persons qualified in geology and soils engineering;~~
- ~~2. The proposed grading, excavation, new construction, and substantial improvement be adequately designed and protected against mudslide damages;~~
- ~~3. The proposed grading, excavations, new construction, and substantial improvement not aggravate the existing hazard by creating either on-site or off-site disturbances; and~~
- ~~4. Drainage, planting, watering, and maintenance not endanger slope stability.~~

21.14.240 Flood-related erosion-prone areas.

~~A. The floodplain administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.~~

~~B. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.~~

~~C. If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.~~

~~D. Within zone E on the flood insurance rate map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.~~

21.14.250 Nature of variances.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. 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.

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It is the duty of the ~~city of El Paso de Robles~~ **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 in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

21.14.~~270~~ 260 Conditions for variances.

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 21.14.130 through 21.14.160 and 21.14.170 through 21.14.~~240~~ **220** of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- 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 which the city council believes will both provide relief and preserve the integrity of the local ordinance.
- E. Any applicant to whom a variance is granted shall be given written notice over the signature of ~~the floodplain administrator or his/her designee~~ **a community official** that:
 - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 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

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Administrator in the Office of the San Luis Obispo County 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 the ~~Federal Insurance Administration~~, Federal Emergency Management Agency.

21.14.260 270 Variances Appeals Board.

~~The city council will approve all requests for variances.~~

- A.* In passing upon requests for variances, the city council shall consider all technical evaluations, all relevant factors, standards specified in ~~Section 21.14.270~~ and other sections of this chapter, and the following:
1. Danger that materials may be swept onto other lands to the injury of others;
 2. Danger of life and property due to flooding or erosion damage;
 3. 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. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. Compatibility of the proposed use with existing and anticipated development;
 8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

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11. 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.

B. Variances shall only be issued upon a:

1. Showing of good and sufficient cause;
2. Determination that failure to grant the variance would result in exceptional “hardship” (as defined in Section 21.14.050 of this chapter) 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 (as defined in Section 21.14.050 of this chapter, see “public safety or nuisance”), cause fraud or victimization (as defined *in Section 21.14.050 of this chapter*) of the public, or conflict with existing local laws or ordinances.

C. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of this section 21.14.270 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. Upon consideration of the factors of *Subsection A of* Section 21.14.260 of this chapter and the purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

~~21.14.280 Remedies.~~

~~In addition to any remedies specified in this chapter, the remedies specified in Chapter 1.02 of this code shall apply.~~

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING CHAPTER 21.14 OF THE MUNICIPAL CODE
(CODE AMENDMENT 08-001, FLOODPLAIN MANAGEMENT)

WHEREAS, the Paso Robles Municipal Code Section 21.14 establishes provisions, standards and administration for development within flood hazard zones as determined by the Federal Emergency Management Agency (FEMA); and

WHEREAS, Code Section 21.14 must be periodically amended to stay in conformance with the National Flood Insurance Program (NFIP); and

WHEREAS, the City has provided a draft amended floodplain management ordinance to FEMA for review and comment; and

WHEREAS, FEMA has acknowledged that the draft floodplain management ordinance is consistent with and conforms to the NFIP; and

WHEREAS, The proposed amendments to the Floodplain Management Ordinance are mandated by FEMA as conditions for participation in the National Flood Insurance Program, and the City has no discretion over the changes, the code amendment is considered to be a “ministerial” project, which is statutorily exempt from the California Environmental Quality Act per Public Resources Code Section 21080;

WHEREAS, at its meeting of June 24, 2008, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this ordinance;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council adopt the proposed ordinance; and

WHEREAS, at its meetings of July 1, 2008, the City Council opened and continued a public hearing on the proposed code amendments to July 15, 2008; and

WHEREAS, at its meetings of July 15, 2008, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this ordinance;
- b. Considered the recommendation of the Planning Commission regarding this ordinance;
- c. Conducted a public hearing to obtain public testimony on the proposed ordinance;

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, hereby finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. As indicated in the staff report for Code Amendment 08-001, the ordinance is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

Chapter 21.14, Floodplain Management Ordinance, is hereby amended to replace the current text with the text of the code amendment attached and labeled Exhibit "A".

SECTION 1. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 2. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 3. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 4. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on July 15, 2008, and passed and adopted by the City Council of the City of El Paso de Robles on the 5th day of August 2008 by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk