ORDINANCE NO. 2011-046

Adopted by the Sacramento City Council

October 25, 2011

AN ORDINANCE REPEALING CHAPTER 17.156, AND AMENDING CHAPTERS 15.104 AND 15.108, OF THE SACRAMENTO CITY CODE, RELATING TO FLOODPLAIN MANAGEMENT AND RISK NOTIFICATION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Chapter 17.156 of the Sacramento City Code is repealed.

SECTION 2.

Chapter 15.104 of the Sacramento City Code is amended to read as follows:

Chapter 15.104 FLOODPLAIN MANAGEMENT REGULATIONS Article I.

Floodplain Management Requirements

15.104.010 Purpose and findings of fact.

A. Statement of Purpose. This chapter is designed to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This chapter regulates development which is or might be dangerous to health, safety and property by requiring at the time of initial development or substantial improvement methods of protection against flood damage in areas vulnerable to flooding in order to minimize flood damage. This chapter regulates the following developmental impacts: filling, grading or erosion, alteration of natural flood plains, stream channels or water courses, the imposition of barriers which increase flood hazards, or any other impacts that aggravate or cause flood hazards.

B. Findings of Fact.

1. Certain flood hazard areas of the city are subject to periodic flooding which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2. These potential flood losses are aggravated by the cumulative effect of obstructions in special flood hazard areas (as defined in Section 15.104.020), which increase flood heights and velocities. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss and if inadequately anchored, damage uses in other areas.

3. The imposition of adequate controls for development in special flood hazard areas will:

   a. Protect human life and health;

   b. Minimize expenditure of public money for costly flood control projects;

   c. Minimize the need for rescue and relief efforts associated with flooding;

   d. Minimize business interruptions;

   e. Minimize damage to streets, sewers, bridges, utilities and other public facilities;

   f. Help maintain a stable tax base by providing for the use and development of special flood hazard areas so as to minimize future flood blight areas.

4. The National Flood Insurance Program (NFIP) is a federal program enabling property owners in the cities and communities that participate in the program to purchase flood insurance from the federal government. Such insurance enables persons owning or buying property in areas identified as flood-prone areas to insure against losses caused by flooding. This type of insurance is generally unavailable from private sector insurance companies and confers a substantial and significant benefit to the residents in the city.

The city's participation in the NFIP is essential for its residents to be eligible to receive the benefits of the NFIP. This eligibility entitles the city's property owners to purchase flood insurance that is federally required, by federal rules and regulations, to protect federally financed investments such as investments using federal assistance for acquisition or construction in established flood-prone areas of the city. This assistance includes federal grants, loans or guarantees made by federal agencies such as the Small Business Administration, Federal Housing Administration, and the Veterans Administration. Flood insurance is also required by certain private lenders pursuant to federal rules and regulations. The ability to refinance mortgages may also be affected by the city's participation in the NFIP. Participation in the NFIP also qualifies the city's residents for emergency relief that may be provided by the federal government after a flood disaster, such as the temporary housing program.

A prerequisite to the property owners and residents in this city being eligible to receive the benefits of the NFIP is the city's compliance with federal regulations which require the city, as well as other communities participating in the NFIP, to implement and maintain specified flood plain management regulations that include effective enforcement provisions.

In order to continue this city's eligibility under the NFIP, it is necessary to enact an ordinance which meets the minimum federal flood plain management criteria prescribed in Part 60 of Subchapter B of Title 44 of the Code of Federal Regulations, and this chapter is intended to do so.

15.104.020 Definitions.

As used in this chapter:

"Accessible roof" means a roof area that is accessible from the ground via a ladder (with a knox box, if locked) or other approved means and that has a slope of 1:12 (one vertical to 12 horizontal) or less.

"Accessory structure" means a structure that is either: a garage or other structure constructed solely for the parking of not more than two cars; or a small shed for limited storage that does not require a building permit.

"Area of shallow flooding" means a designated AO, AH, AR/AO, or AR/AH zone on the flood insurance rate map (FIRM). The base flood depths or elevations range from one to three feet; a clearly defined channel does not exist; the path of

the flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Base flood" means a flood that has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood").

"Base flood elevation" or "BFE" means the water surface elevation resulting from the base flood.

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

"Building" means any structure.

"CFMP" means the comprehensive flood management plan adopted by the city in 1996, as amended.

"Developed area" means an area of a community that is:

1. A primarily urbanized built-up area that is a minimum of 20 contiguous acres, has basic urban infrastructure, including roads, utilities, communications, and public facilities, to sustain industrial, residential, and commercial activities, and:

    a. Within which 75 percent or more of the parcels, tracts, or lots contain commercial, industrial, or residential structures or uses; or

    b. Is a single parcel, tract, or lot in which 75 percent of the area contains existing commercial or industrial structures or uses; or

    c. Is a subdivision developed at a density of at least two residential structures per acre within which 75 percent or more of the lots contain existing residential structures at the time the designation is adopted.

2. Undeveloped parcels, tracts, or lots, the combination of which is less than 20 acres and contiguous on at least three sides to areas meeting the criteria of paragraph 1 of this definition at the time the designation is adopted.

3. A subdivision that is a minimum of 20 contiguous acres that has obtained all necessary government approvals, provided that the actual "start of construction" of structures has occurred on at least 10 percent of the lots or remaining lots of a subdivision or 10 percent of the maximum building coverage or remaining building coverage allowed for single lot subdivision at the time the designation is adopted and construction of structures is

underway. Residential subdivisions must meet the density criteria in paragraph (1)(c) of this definition.

"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 and storage of equipment or materials.

"Dry floodproofed" means the application of floodproofing measures that meet applicable FEMA requirements for dry floodproofing.

"Evacuation area" means an area of the city outside of the special flood hazard area and identified as an evacuation area in the CFMP.

"FEMA" means the Federal Emergency Management Agency, including any department or division of FEMA, such as the Federal Insurance and Mitigation Administration which manages the NFIP.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or from the unusual and rapid accumulation or runoff of surface waters from any source; the collapse or subsidence of land along the shore of a lake or other body of water, including but not limited to a levee; and/or the condition resulting from flood-related erosion.

"Flood Hazard Boundary Map" or "FHBM" means the official map on which the FEMA has delineated both special flood hazard areas and the floodway.

"Flood insurance rate map" or "FIRM" means the official map on which the FEMA has delineated both special flood hazard areas and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the FEMA that includes flood profiles, the FIRM, the FHBM, and the water surface elevation of the base flood.

"Floodplain" or "flood-prone area" means any land area susceptible to flooding. "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 any other zoning ordinances, subdivision regulations, building codes, health regulations, special

purpose ordinances (such as grading and erosion control), other applications of police power that control development in flood-prone areas, and any other federal, state, or local laws or regulations (including but not limited to Part 60 of Subchapter B of Title 44 of the Code of Federal Regulations) in any combination that provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means 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. Guidelines on dry and wet floodproofing are provided by FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

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

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

"Historic structure" means any structure that is:

1. Individually listed in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior, or State Historic Preservation Officer, as meeting the requirements for individual listing in the National Register; or

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior, or State Historic Preservation Officer, to qualify as a registered historic district; or

3. Individually listed in the California Register of Historical Resources or preliminarily determined by the State Historic Preservation Officer as meeting the requirements for individual listing in the California Register; or

4. Certified, listed, or preliminarily determined by the State Historic Preservation Officer as contributing to the significance of a registered or listed historic district or a district preliminarily determined by the State Historic Preservation Officer to qualify as a registered or listed historic district; or

5. Individually listed in the Sacramento Register of Historic & Cultural Resources (a listing maintained by the City of Sacramento, a Certified Local Government,) or preliminarily determined by the City's preservation director as meeting the requirements for individual listing in the Sacramento Register of Historic and Cultural Resources; or

6. Listed or preliminarily determined by the Preservation Director as contributing to the significance of a listed historic district or a district preliminarily determined by the Preservation Director to qualify as a listed historic district.

"Levee" means a man-made facility, 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.

"Local administrator" means the director of the department of utilities or his or her authorized designees.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, 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, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

"Manufactured home" means a structure, transportable in one or more sections, that 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" also includes park trailers, travel trailers, and other similar vehicles places on a site for greater than 180 consecutive days. 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" means the current estimated market value of a structure, excluding the value of the land on which the structure is located, and also excluding the value of any landscaping or detached accessory structures on such land. The current tax assessed value of the structure as provided by the county tax assessor's office shall be used as the market value where the cost of the proposed improvement to the structure does not exceed 40 percent, or exceeds
60 percent, of the structure's current tax assessed value, unless a different value is set forth in an independent appraisal prepared by a professional appraiser no earlier than 90 days before a building permit application is submitted for the improvement. The building permit must be issued within 180 days of the application in order for the appraisal to be valid. In cases where the cost of the proposed improvement to the structure exceeds 40 percent but does not exceed
60 percent of the current tax assessed value of the structure, the applicant must provide an independent estimate of market value prepared by a professional appraiser no earlier than 90 days before a building permit application is

submitted for the improvement, provided that the current tax assessed value may be used as the market value if the local administrator determines for good cause that an independent appraisal should not be required. The building permit must be issued within 180 days of the application in order for the appraisal to be valid. Whenever the current tax assessed value of a structure is used to determine market value of the structure, the local administrator may make such adjustments to the current tax assessed value as are necessary, in the professional judgment of the local administrator, to produce an accurate estimate of market value. In cases where a current tax assessed value of a structure is not available from the county tax assessor's office, the applicant must provide an independent estimate of market value prepared by a professional appraiser no earlier than 90 days before a building permit application is submitted for the improvement to the structure. The building permit must be issued within 180 days of the application in order for the appraisal to be valid. Notwithstanding the above, a qualified estimate based on sound professional judgment made by the local administrator can be used as the market value estimate if the cost of the proposed improvement ratio is obviously less than 40 percent, or greater than 60 percent, of such market value estimate.

"Mean sea level" means 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 FIRM are referenced.

"New construction" means structures for which the "start of construction" commenced on or after February 23, 1982, and includes any subsequent improvements to such structures.

"NFIP" means the National Flood Insurance Program.

"One-hundred-year flood" or "100-year flood" has the same meaning as "base flood."

"Primary escrow agent" means the person or entity providing primary escrow services in connection with the sale of a structure.

"Public facilities" means facilities owned or operated by any local, state, or federal government agency.

"Public refuge" means an accessible area located above the rescue flood elevation that is available to members of the general public in the event of a flood. Public refuge locations may include approved public facilities, nonresidential buildings, or other accessible refuge and evacuation structures (e.g., levees). Public refuge areas must be located within one mile of the farthest residential unit served.

"Recreational vehicle" means a vehicle that 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.

"Rescue flood elevation" means the elevation of flood waters estimated in the CFMP to occur 48 hours after a given levee break.

"Rescue area" means an area of the city that has the potential of flooding to a depth of at least one foot within two hours of a levee failure and that is identified as a rescue area in the CFMP.

"Special flood hazard area" or "SFHA" means an area either:

1. Located in Zone A, AO, AH, AE, A99, AR, AR/AE, AR/AO, AR/AH, or AR/A, as designated on any FIRM; or

2. Subject to the base flood as designated on any floodplain map issued by the California Department of Water Resources pursuant to Section 9610 of the California Water Code; or

3. Subject to the base flood as reasonably determined in writing by the local administrator based on the best available information relating to flood protection.

"Special needs facilities" includes hospitals, schools, and nursing or residential care facilities of any type.

"Start of construction" means the date the building permit was issued for a substantial improvement or new construction, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement occurs within 180 days from the date the permit is issued. For new construction, the actual start of construction means either: the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building or other structure that is principally above ground; this includes a gas or liquid storage tank or 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 damage 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 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 repair, reconstruction, or improvement of a structure, whether requiring one or multiple permits, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the start of construction of the substantial improvement; or

2. If the structure has been damaged, and is being restored, before the damage occurred.

The term "substantial improvement" does not, however, include either:

1. Any project for improvement of a structure to correct violations of existing state or local health, sanitary, or safety code specifications which are the minimum necessary to assure safe living conditions; or

2. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

"Variance" means a grant of relief from a requirement of the floodplain management regulations that permits construction in a manner that would otherwise be prohibited by the floodplain management regulations.

"Violation" means the failure of a structure or other development to be fully compliant with the floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other

evidence of compliance required in the floodplain management regulations is presumed to be in violation until such time as that documentation is provided.

"Wet floodproofed" means the application of floodproofing measures that meet applicable FEMA requirements for wet floodproofing.

"Zone A", "zone AO", "zone AH", "zone AE", "zone A99", "zone AR", "zone AR/AE", "zone AR/AO", "zone AR/AH", "zone AR/A", "zone X", and any other zone designated on a flood insurance rate map (FIRM) means the areas that are designated as such zones on a FIRM.

15.104.030 General provisions.

A. Lands to Which This Chapter Applies. This chapter shall apply to all special flood hazard areas within the jurisdiction of the city.

B. Adoption of FEMA Study and Maps.The flood insurance study (FIS) for the city of Sacramento dated March 1978, and the flood insurance rate maps (FIRMs) and flood hazard boundary maps (FHBMs) dated February 4,
1988, and all subsequent amendments and/or revisions thereto, are adopted by this reference and declared to be a part of this chapter. The FIS, FIRMs, and FHBMs are on file with the city utilities department floodplain management section, and the city planning and development permit assistance center.

C. Compliance. No structure shall be constructed, located, extended, converted, or substantially improved, nor shall land be graded for development, without full compliance with all applicable terms of the floodplain management regulations and all other applicable provisions of this code, including but not limited to all applicable requirements for grading approval and/or building permits, as well as any other laws or regulations, including, but not limited to, all applicable provisions of the California Building Code, as amended. In the event of a conflict between the provisions of this chapter and other provisions of this code or any law or regulation, the more restrictive provision shall govern.

D. Local Administrator. The local administrator shall administer and implement this chapter by exercising all authorities provided in this chapter and other applicable floodplain management regulations.

E. No Abrogation. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

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

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under any other law or regulation.

G. 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 man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas and areas of flood-related erosion 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, or the Federal Insurance and Mitigation Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

H. 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.

15.104.040 Administration.

A. Flood Hazard Evaluation. Before beginning construction of any structure or development (including substantial improvement) of any property within any special flood hazard area, the owner of the property or the owner's authorized agent shall apply to the local administrator for a flood hazard evaluation. Application for flood hazard evaluation shall include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; and the location and dimensions of all existing or proposed structures, fill, storage of materials, and drainage facilities. The local administrator may require the application to be submitted on forms furnished by the local administrator. The following information shall be included in the application submitted:

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

2. Proposed elevation in relation to mean sea level to which any structure will be floodproofed;

3. All appropriate certifications and/or permits;

4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

5. The following certifications from the applicant's registered engineer:

   a. That the requirements of this chapter have been satisfied.

   b. That all required state and federal permits have been obtained.

   c. That the site, subdivision or other proposed development is reasonably safe from flooding.

   d. That the proposed construction or development (including substantial improvements) shall not result in any increase in flood levels during the occurrence of the base flood; provided that for construction or development located within a special flood hazard area but outside of any floodway designated on any FIRM, the local administrator may waive this requirement for specified encroachments if the local administrator determines that any increase in flood levels resulting from such encroachments will be negligible.

   e. If a watercourse is to be altered or relocated:

      i. That adjacent communities and the California Department of Water Resources have been notified of such alteration or relocation, including such evidence of notification as may be required by the local administrator for submittal to the Federal Insurance and Mitigation Administration; and

      ii. That the flood carrying capacity of the altered or relocated portion of the watercourse will be maintained.

B. The local administrator shall maintain all certifications provided under this chapter, as well as the elevation certification required in Section 16.40.350 of this code (subdivision standards), for a reasonable period of time for public inspection.

C. The local administrator shall perform the following duties with respect to any proposed construction or development (including substantial improvements) in the AR zone:

1. Use the adopted official map or legal description of those designated developed areas within zones AR, AR/AE, AR/AH, AR/A, AR/AO to determine if a proposed project is in a developed area.

2. Determine the base flood elevation to be used for individual projects within developed areas, areas not designated as developed areas, and dual zone areas. (See Section 15.104.050(F) of this chapter.)

3. Provide written notification to the applicant that the area has been designated as an AR, AR/AE, AR/AH, AR/A, or AR/AO Zone and whether the structure must be elevated or protected to or above the AR base flood elevation or depth.

D. The local administrator may impose, as a condition of any city permit for, or other city approval of, any proposed construction or development (including substantial improvements), the requirement to dedicate or make an irrevocable offer to dedicate drainage, floodplain, and/or floodway easements within the property for which the permit or approval is sought, provided that such dedication requirement is reasonably related to the public needs arising as a result of the proposed construction or development.

15.104.050 Requirements for flood hazard reduction.

A. Standards of Construction. The following standards and requirements shall apply in all special flood hazard areas, except in zone A99 or as otherwise indicated below:

1. Anchoring.

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

b. All manufactured homes shall meet the anchoring standards specified in subsection C of this section.

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. Within zones AH, AO, or AR/AH adequate drainage paths on slopes shall be required to guide flood waters around and away from proposed structures.

3. Elevation and Floodproofing.

a. New construction and substantial improvement of any structure in zones A, AH, and AE shall have the lowest floor, including basement, elevated one foot above the base flood elevation specified in feet on the FIRM (the local administrator shall determine the base flood elevation in zone A). Nonresidential structures may meet the standards in subsection (A)(3)(d) of this section.

b. New construction and substantial improvement of any structure in zone AO, shall have the lowest floor, including basement, elevated above the highest adjacent grade to the depth number specified in feet on the FIRM or two feet above the highest adjacent grade if no depth number is specified. Nonresidential structures may meet the standards in subsection (A)(3)(d) of this section.

c. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a qualified registered professional engineer or land surveyor to be properly elevated. Such certification shall be provided to the local administrator.

d. Nonresidential construction shall either be elevated in conformance with subsections (A)(3)(a-c) of this section, together with attendant utility and sanitary facilities, or shall:

i. Be dry floodproofed below the elevation required for the lowest floor so that the structure is watertight with walls substantially impermeable to the passage of water;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

iii. Be certified by a qualified registered professional engineer or licensed architect to be in compliance with that the standards of this subsection. Such certification shall be provided to the local administrator.

e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage, and that are subject to flooding, shall be wet floodproofed and designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either:

i. Be certified by a qualified registered professional engineer; or

ii. Meet or exceed the following minimum criteria: 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 shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood waters. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter.

f. To ensure that the areas below the base flood elevation shall be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management regulations in effect at the time of conversion, the local administrator shall:

i. Determine which applications for new construction or substantial improvements have fully enclosed areas below the lowest floor that are five feet or higher;

ii. Require the applicant to enter into a non-conversion agreement in a form acceptable to the local administrator. The agreement shall be recorded with the Sacramento County Recorder as a deed restriction; and

iii. Have the authority to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least 72 hours.

g. Manufactured homes shall also meet the standards in subsection (A)(3)(d) of this section.

h. For elevation and floodproofing requirements in an AR zone, see subsection F of this section.

i. Garages and other accessory structures. i.

Attached garages.

1. A garage attached to a residential structure, constructed with the garage floor slab below the base flood elevation, must be wet floodproofed and designed to allow for the automatic entry and exit of flood waters as specified in subsection (A)(3)(e) of this section. Areas of the garage below the base flood elevation must be constructed with flood resistant materials.

2. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed.

3. A garage attached to a residential structure may not be built below the highest adjacent grade.

ii. Detached garages and other accessory structures.

1. Accessory structures may be constructed such that the floor of the accessory structure is

below the base flood elevation, 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 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 not result in any increase in flood levels during the occurrence of the base flood, unless the local administrator determines that any increase in flood levels will be negligible as provided in section 15.104.040(A)(5)(d); and

f. The accessory structure must be designed to allow for the automatic entry and exit of flood waters in accordance with subsection (A)(3)(e) of this section.

2. Detached garages and other accessory structures not meeting the above requirements must be constructed in accordance with all applicable standards in subsection (A)(3)(a-g) of this section.

3. A detached garage for a residential structure may not be built below the highest adjacent grade.

B. Standards for Wet Utilities.

1. All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

2. On-site septic and well systems shall be located to avoid impairment to the systems or contamination from the systems during flooding as approved by the Sacramento County health department.

C. Standards for Manufactured Homes.

1. All manufactured homes that are placed or substantially improved within zones A, AH, AO, AE, AR, AR/AE, AR/AH, and AR/AO on sites located: (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated in accordance to the applicable elevation requirements of subsection (A)(3) and/or (F) of this section and shall be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A, AH, AO, AE, AR, AR/AE, AR/AH, AR/AO, and AR/A that are not subject to the provisions of subsection (C)(1) of this section will be securely fastened to an adequately anchored foundation system to resist flotation collapse, and lateral movement, and be elevated so that either (i) the lowest floor of the manufactured home complies with the applicable elevation requirements of subsection (A)(3) and/or (F) of this section or (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

D. Standards for Recreational Vehicles. All recreational vehicles placed on sites within zones A, AH, AO, AE, AR, AR/AE, AR/AH, AR/AO, and AR/A:

1. Shall meet the requirements of Section 15.104.040 and the elevation and anchoring requirements for manufactured homes in subsection (C)(1) of this section; and

2. Shall not be on the site for more than 180 consecutive days, and shall 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.

E. Floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply in any floodway:

1. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If subsection (1) of this subsection E is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.

F. AR Zone Areas. Within areas designated as zones AR, AR/AE, AR/AH, AR/AO, or AR/A, the following standards shall apply:

1. Developed Areas. All new construction in areas designated as developed areas shall meet the standards of this section using the lower of either the AR base flood elevation (or flood depth) or the elevation that is three feet above the highest adjacent grade.

2. Areas Not Designated as Developed Areas. All new construction in areas that are not designated as developed areas:

a. Shall meet the standards of this section using the lower of either the AR base flood elevation (or flood depth) or the elevation that is three feet above the highest adjacent grade, where the AR flood depth is equal to or less than five feet above the highest adjacent grade; or

b. Shall meet the standards of this section using the AR base flood elevation, where the AR flood depth is greater than five feet above the highest adjacent grade.

3. Dual Flood Zones.

a. All new construction in areas within zones AR/AE, AR/AH, AR/AO, or AR/A shall meet the standards of this section using the higher of either the applicable AR zone elevation (as determined under subsection (F)(1) or (F)(2) of this section) or the base flood elevation (or flood depth) for the underlying AE, AH, AO, or A zone.

b. All substantial improvements within zones AR/AE, AR/AH, AR/AO, or AR/A shall meet the standards of this section using the base flood elevation (or flood depth) for the underlying AE, AH, AO, or A zone.

15.104.060 Variances.

A. The local administrator is empowered to issue a variance only for purposes consistent with the objectives of FEMA's floodplain management regulations. A variance could affect flood insurance rates and may result in flood insurance premium rates on structures that are beyond the means of the person receiving the variance. FEMA requires the city to make an annual report on any variance that is granted, and if FEMA determines that such variance is inconsistent with the objectives of sound floodplain management, FEMA may take action to suspend the city from the NFIP.

B. The local administrator may only grant a variance from the terms of one or more requirements in this article based on written findings that:

1. The variance is authorized under the provisions of Subchapter B, Title 44, Code of Federal Regulations (CFR), Section 60.6, as amended; and

2. The variance will not adversely affect the public health, safety or welfare; and

3. Consistent with the general principle of zoning law that variances pertain to a piece of property and are not personal in nature, the variance is justified based on unique physical characteristics of the property subject to the variance which are so unusual that complying with the requirements of this article would create an exceptional hardship to the applicant or the surrounding property owners, and such unique characteristics pertain to the land itself, not to the structure, its inhabitants, nor the property owners.

C. The local adminstrator's decision not to grant a variance shall be final and conclusive and shall not be subject to appeal under the provisions of section 15.104.080.

Article II. Additional Provisions

15.104.070 Compliance with CFMP.

A. New construction in any special flood hazard area shall comply with all applicable provisions of the CFMP prior to the issuance of any building permit. The requirements of the CFMP and this section are in addition to all other applicable laws or regulations.

B. Rescue Areas. The following additional safety measures shall be required for new construction in areas defined as rescue areas in the CFMP:

1. Special Needs Facilities. Special needs facilities located in rescue areas must register with the department prior to occupancy of the structure. Electrical equipment, heating and ventilating equipment, air conditioning, emergency generators, and phone banks for these facilities must be either located one foot above the rescue flood elevation or constructed in a manner satisfactory to the city's chief building official such that water cannot enter or accumulate in any of the system components.

2. New public facilities and new commercial buildings (excluding industrial occupancies) located in rescue areas with an enclosed building area greater than 40,000 square feet shall have an accessible roof or floor level at least one foot above the rescue flood elevation.

3. New residential subdivisions located in rescue areas occupying an area greater than two acres shall either:

   a. Identify a public refuge location or locations located within one mile of all residential units;

   b. Have a maximum slope of 4:12 (4 vertical to 12 horizontal) for the entire roof of a minimum of 50 percent of the residential units; or

   c. Have a floor level at least one foot above the rescue flood elevation.

C. Rescue Areas and Evacuation Areas. The following additional safety measures shall be required for new construction in areas defined as both rescue areas and evacuation areas in the CFMP:

1. New subdivisions shall have two or more vehicular ingress and egress points designed to facilitate evacuation and other emergency services where geographically feasible. Knox boxes shall be provided in gated communities to facilitate emergency vehicle access.

2. Approved lever handle gas valves shall be used for all residential and nonresidential gas appliances as required under Title 15 of this code.

3. Above ground fuel tanks shall be securely anchored to a foundation to prevent movement or floatation during a flood as required under Title 15 of this code.

D. Requests for alternative compliance methods with, or variances from, any portion of this section shall be subject to review and approval by the local administrator. Such requests shall be in writing and shall include such documentation as may be required by the local administrator

15.104.080 Appeals.

A. Except as provided otherwise in this chapter, any person aggrieved by a decision of the local administrator under this chapter may appeal the local administrator's decision by filing a notice of appeal with the city's building official within 10 calendar days after the date of the local administrator's decision. Any such appeal shall be filed with, and heard by, the city's building and fire code advisory and appeals board, in accordance with the provisions and requirements of sections 2.48.120 and 2.48.130 of this code.

B. Any person aggrieved by the building and fire code advisory and appeals board's decision on an appeal may appeal the decision to the city council in accordance with the provisions and requirements of section 2.48.140 of this code.

C. A copy of all findings and decisions on appeals shall be sent to the local administrator for the annual report to the Federal Insurance Administrator.

15.104.090 Fee schedule.

Any person requesting or requiring action by the local administrator pursuant to this chapter, including but not limited to flood hazard evaluation or

any other duties performed under section 15.104.040 of this chapter, inspections, and requests for variance, shall pay such fees as may be established to recover costs incurred by the local administrator in the amounts set by resolution of the city council.

15.104.100 Additional restrictions.

Nothing contained in this chapter or in chapter 15.108 of this code shall preclude the city council or the planning commission from imposing on a project- by-project basis such additional flood-related restrictions on new construction or substantial improvements in a special flood hazard area as the council or commission may deem appropriate based on best available information relating to flood protection.

SECTION 3.

Chapter 15.108 of the Sacramento City Code is amended to read as follows:

Chapter 15.108 FLOODPLAIN RISK NOTIFICATION

15.108.010 Purpose.

This chapter establishes mechanisms whereby persons seeking to build any structure or otherwise obtain an interest in any structure in a special flood hazard area may be notified of the risk of flooding, and the owners of any new construction or substantial improvement in a special flood hazard area may be required to acknowledge and assume the risk of flood-related property damage.

15.108.020 Definitions.

The definitions set forth in Section 15.104.020 of this code shall apply to this chapter. In addition, for purposes of this chapter, "flood-related property damage" means any property damage resulting from a flood or flooding.

15.108.030 Notice to purchasers.

A. In connection with the sale of any structure located in a special flood hazard area, the seller, any real estate agent, or broker representing the seller, and the primary escrow agent involved in the transaction shall:

1. Provide the prospective purchaser with written notice of the flood danger in a form of acceptable to the city attorney;

2. Obtain the prospective purchaser's signed acknowledgment of receipt of the notice; and

3. Record the prospective purchaser's signed acknowledgment in the Sacramento County Recorder's office.

B. The written notice required by this section shall be provided as follows:

1. In the case of sales which must be preceded by furnishing to prospective purchasers of a public report pursuant to Section 11018.1 of the California Business and Professions Code or a disclosure statement pursuant to Section 1102.2 of the California Civil Code, the seller and any real estate agent or broker representing the seller shall ensure that the notice of the flood danger either accompanies or is included in the public report or the disclosure statement.

2. In the case of sales to which subsection (B)(1) of this section does not apply, the seller any and real estate agent or broker representing the seller shall provide the notice of the flood danger to the prospective purchaser as soon as practicable before the transfer of the title; and

3. In the event that escrow services are utilized in connection with any sales subject to this section, the primary escrow agent shall verify that the notice of the flood danger has been delivered as required under subsections (B)(1) and (B)(2) of this section. If for any reason the prospective purchaser has not received the notice, then the primary escrow agent shall provide the notice to the prospective purchaser through the escrow process prior to the transfer of title.

C. This section shall apply to the sale of any structure that occurs on or after July 6, 1998, provided that at the time of the sale the affected structure is located in a special flood hazard area.

15.108.040 Contractual assumption of the risk of flooding.

A. As of July 6, 1998, no building permit shall be issued for any new construction or substantial improvements located in a special flood hazard area, unless the owners of the new construction or substantial improvements execute an agreement with the city, in a form acceptable to the city attorney, whereby such persons:

1. Are notified of and expressly acknowledge and assume the risk that the new construction or substantial improvements may be subject to flood-related property damage;

2. Unconditionally waive any claim of liability on the part of the city, or its officers, agents, or employees for any flood-related property

construction or substantial improvements, whether or not the issuance of the permit is due to the negligence of the city, or its officers, agents, or employees;

3. Expressly agree, in connection with the transfer of an ownership or possessory interest in the new construction or substantial improvements, to notify the transferee of the flood danger and obtain on behalf of the city the transferee's waiver of any claim for flood-related property damage premised on the issuance of a permit for the new construction or substantial improvements; and

4. Agree to defend, hold harmless, and indemnify the city and its officers, employees, and agents from and against any and all claims for any flood-related property damage premised on the issuance of a permit for the new construction or substantial improvements; provided that the indemnifiers shall be released from this indemnification pledge if, at such time as the city seeks to enforce this pledge, the indemnifiers demonstrate that they no longer have any legal or equitable interest in the new construction or substantial improvements and have fully complied with the provisions of the agreement requiring that they give notice of the flood danger to third parties obtaining an interest in the new construction or substantial improvements.

Adopted by the City of Sacramento City Council on October 25, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.

Mayor Kevin Johnson

Attest:

Shirley Concolino, City Clerk

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