

COUNCIL AGENDA: AUGUST 6, 2013

SUBJECT: LETTER OF MAP REVISION - "MONACHE" SPECIAL FLOOD HAZARD AREA (SFHA)

SOURCE: Public Works Department - Engineering Division

COMMENT: A Flood Insurance Study was first prepared for the City of Porterville in 1971 pursuant to the provisions of the National Flood Insurance Act of 1968. In 1975 the City applied for, and was granted, certification permitting the City to qualify for participation in the subsidized flood insurance program under the Flood Disaster Protection Act of 1973. As part of the measures necessary to meet the flood plain management requirements under this action, amendments were enacted in the Zoning Ordinance creating Floodplain Zones that restrict uses in certain flood hazard areas.

A new Flood Insurance Study was completed for the City of Porterville in January of 1983. As part of this study, a revised Flood Insurance Rate Map (FIRM) was prepared that identifies the areas within the City that are subject to flood hazard. The Federal Emergency Management Agency (FEMA) has adopted the 100-year flood for purposes of floodplain management measures. This is a flood that is defined as having a one percent chance of occurring in any given year. This new program provided an actuarial flood insurance with the private market rates based on "true risk." City Council adopted the new program on June 7, 1983, by enacting Ordinance No. 1285.

Effective October 1, 1986, FEMA changed some of the rules governing the National Flood Insurance Program (NFIP). To continue as a participant in the NFIP, the City Council adopted an updated program on March 15, 1988, by enacting Ordinance No. 1397. Within this ordinance was specific language for a Special Flood Hazard Area (SFHA), Zone A without a Base Flood Elevation (BFE) for an area in the vicinity of Monache High School, hereinafter specifically referenced as "Monache" SFHA. The specific language is as follows:

*"New construction and substantial improvements of any structure in Zone AH or AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet if no depth number is specified. For the purpose of this ordinance, new construction and substantial improvement of any structure in Zone A located within the following described boundaries shall have the lowest floor including basement, elevated to a depth of one foot above the highest adjacent grade."*

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Item No. 31

*North boundary - Westfield Avenue*  
*South boundary - Henderson Avenue*  
*East boundary - Prospect Street*  
*West boundary - Newcomb Street*

Effective October 1, 2006, FEMA again modified some of the rules governing the NFIP. To continue as a participant in the NFIP, the City Council adopted an updated program on May 3, 2011, by enacting Ordinance No. 1777. Adoption of the ordinance was predicated by a May 18, 2010, on-site Community Assistant Visit (CAV) by the Department of Water Resources, on behalf of FEMA. The purpose of the meeting was to evaluate how the City of Porterville administers its floodplain management program under the NFIP.

The CAV was followed with a June 22, 2010, letter to the Mayor of Porterville and the letter provided several findings. The findings pertinent to the "Monache" SFHA are as follows:

- It was determined that Ordinance 1397, Sections 7-138 thru 7-142 of the *Municipal Code, Flood Damage Prevention Code*, adopted on March 15, 1988, does not meet minimum NFIP as specified in "Title 44, Code of Federal Regulations (CFR), Section 60.3." Title 44, Code of Federal Regulations and the NFIP are one and the same and as previously stated, Ordinance 1397 allowed for the structures in the "Monache" SFHA to be constructed 1 foot above the highest adjacent grade, which is contrary to Section 60.3 of the 44CFR.
- An updated floodplain ordinance was also requested and to be processed within 60 days of CAV report. The new ordinance created new language associated with the "Monache" SFHA by requiring new development or substantial improvements to comply with Section 60.3 of the 44CFR, which is typically 2 feet above the highest adjacent grade.
- The CAV also revealed that the "Monache" SFHA is now being served by a completely functional storm drain system, as of 2010, and recommends that the City provide FEMA with the proper information under the Section 65.3 of the 44CFR. Proper information includes a hydrological study and submission of a Letter of Map Revision application. The outcome could, if approved by FEMA, render this area "reasonably safe from flooding" and remove the current flood hazard area designation. Additionally, property owners would then be allowed to cancel flood insurance policies.

Funds were appropriated for the hydrological study during fiscal year 2010/2011 and staff commenced with the study as time permitted during the same fiscal year. Significant progress was accomplished during the latter part of last fiscal year and staff is now ready to submit the LOMR application and supporting documentation to FEMA.

Costs associated with the preparation of the LOMR package have exceeded \$50,000. The costs identified herein represent three years worth of engineering effort and include two different hydrology computer models with supporting studies. The first effort using modern up-to-date software familiar to staff was later discovered "not officially" approved by FEMA. This discovery necessitated a second effort using software acceptable to FEMA.

In total, one hundred thirty-seven (137) residential lots exist within the "Monache" SFHA and of those, sixty-four (64) property owners hired an engineer to classify their property as an area no longer prone to flooding by filing a Letter of Map Revision. The cost associated with this effort is unknown to staff because it was performed entirely by the private sector. A few property owners still within the "Monache" SFHA inform that their flood insurance premiums are as high as \$1,400 annually.

The FEMA application review fee is \$5,300. Staff attended a neighborhood meeting to discuss our progress with the study and to answer questions the neighborhood may have. The application fee was discussed and a few property owners were willing to pay their proportional share, while a majority felt it was the City's responsibility.

The area is unique in nature due to the specific language contained in Ordinance 1397 for the "Monache" SFHA and shown in *italics* in this report. The language in question is not allowed per Section 60.3 of the 44CFR. The storm drain system within this area of Porterville is now fully functional and requires that the floodplain administrator follow through with the LOMR application and supporting documentation.

In accordance with Section 65.3 of the 44CFR, and the City's new ordinance, Ordinance 1777, agencies that participate in the program are required to condition new developments to file LOMRs' or file LOMRs' on behalf of the community when storm drain systems become fully functional and the applicable SFHA is no longer relevant in the opinion of the floodplain administrator. The regulation was not part of the City's two (2) prior ordinances, Ordinance 1285 and Ordinance 1397, and was not known to the floodplain administrator at the time.

It is staff's opinion that the special language in the Floodplain Ordinance must remain due to the fact that the properties in the area have already

been constructed to an elevation lower than specified by FEMA. Whether the City or the area property owners pay the application fee, the City must show good faith and move forward with the application process. The hydrological study is being funded by the Storm Drain Developer Fee account and could also be the funding source for the LOMR application filing fee.

The City of Porterville has other SFHA designations that are much larger than the "Monache" SFHA. The Zones range from a Zone A, without a "Base Flood Elevation" (BFE), Zone A with a BFE, Zone AH with BFE, Zone AO (Depth 1') and Zone AE. Each zone has individual administrative policy requirements.

Zone A without a BFE is the most problematic because it requires a greater effort to determine the actual flood level (the area lacks technical study). Zone A and Zone AH with BFE provides specific guidelines for construction by establishing an elevation that finished floors must be constructed at or above. Zone AO (Depth 1') specifies that a finish floor shall be constructed at or above the ground elevation when FEMA mapped the area. Zone AE is the flood area along the Tule River and provides a BFE. This Zone is the most scrutinized because it is within a State classified Designated Floodway. Each individual SFHA described herein except the "Monache" SFHA, lack complete storm drain infrastructure and are classified by staff as **not** being candidates for studies such as the one currently completed.

**RECOMMENDATION:** That the City Council provide direction regarding the most appropriate funding source for the \$5,300 LOMR application filing fee.

**ATTACHMENTS:** Ordinance 1285  
Ordinance 1397  
Ordinance 1777  
Department of Water Resources Community Assistance Report  
Locator Map - Portion of FIRM Map, Panel 1633 of 2550

ORDINANCE NO. 1285

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF PORTERVILLE AMENDING CHAPTER SEVEN OF THE  
MUNICIPAL CODE BY ADDING ARTICLE XIV, FLOOD  
DAMAGE PREVENTION CODE

WHEREAS: The City Council of the City of Porterville has made  
the following findings of fact:

- (1) The flood hazard areas of the City of Porterville 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.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage.

WHEREAS: Damage due to flooding in defined flood hazard areas can be significantly reduced by adoption and adherence to the flood plain management program; and

WHEREAS: A key element in a flood plain damage program is a Flood Damage Prevention Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DO  
ORDAIN AS FOLLOWS:

That Chapter Seven of the Municipal Code of the City of  
Porterville be amended by adding Article XIV:

ARTICLE XIV

FLOOD DAMAGE PREVENTION CODE

SECTION 7-138  
DEFINITIONS

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

"Appeal" means a request for a review of the Community and Financial Services Director's interpretation of any provision of this ordinance or a request for a variance.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This area is designated as Zone A, AO, AH, AI-30 on the FIRM.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Breakaway walls" mean any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support or the building and which are so designed as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

"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 located within the area of special flood hazard.

"Existing mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

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

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

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood Boundary Floodway Map" means the official map on which the Federal Emergency Management Agency has delineated both the areas of flood hazard and the floodway.

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

"Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the FIRM, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

"Floodproofing" means any combination of structural and non-structural additions, changes or adjustments to non-residential structures which reduce or eliminate flood damage to real estate or improved property.

"Flood-related erosion" a condition that exists in conjunction with a flooding event that alters the composition of the shoreline or bank of a watercourse. One that increases the possibility of loss due to the erosion of the land area adjacent to the shoreline or watercourse.

"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 (1) foot. The floodway is delineated on the Flood Boundary Floodway Map.

"Habitable floor" means any floor useable for living purposes, which includes working, sleeping, eating or recreation, or combination thereof. For flood insurance purposes, habitable floor and lowest floor will share the same definition:

"Hazard Mitigation Plan" A plan that incorporates a process whereby the potential of future loss due to flooding can be minimized by planning and implementing alternatives to flood plain development community wide.

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

"Mobile home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers, or manufactured housing on permanent slab foundation.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

"New mobile home park or mobile home subdivision" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities or servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

"Start of construction" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home

subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities is completed.

"Structure" means a walled and roofed building or mobile home that is principally above ground.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

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

This term does not, however include either:

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

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

#### SECTION 7-139 GENERAL PROVISIONS

##### SECTION 7-139.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Porterville.

##### SECTION 7-139.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration, through the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Porterville," dated January 18, 1983, with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at 291 North Main Street, Porterville, California.



#### SECTION 7-139.3 COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

#### SECTION 7-139.4 ABROGATION AND GREATER RESTRICTIONS

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

#### SECTION 7-139.5 INTERPRETATION

In the interpretation and application of this ordinance, 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 state statutes.

#### SECTION 7-139.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance 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 ordinance 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 damage. This ordinance shall not create liability on the part of the City of Porterville, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result reliance on this ordinance or any administrative decision lawfully made thereunder.

#### SECTION 7-140 ADMINISTRATION

##### SECTION 7-140.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 7-139.2. Issuance of a building permit shall constitute approval of a development permit for purposes of this section. In areas of special flood hazard, all applications for building permits shall include the following information:

- (1) Proposed elevation in relation to mean sea level, of the lowest habitable floor (including basement) of all structures; in Zone AO elevation of existing grade and proposed elevation of lowest habitable floor of all structures.

- (2) Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 7-141.1 (3) and,
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### SECTION 7-140.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Director of Community and Financial Services is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

#### SECTION 7-140.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties and responsibilities of the Director of Community and Financial Services shall include but not be limited to:

##### a. Permit Review

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all permits to determine that the site is reasonably safe from flooding.
- (3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.
- (4) Review all proposals for the development of 5 parcel or more to assure that the flood discharge exiting the development after construction is adequately controlled and the method of disposal is approved by the City Engineer.

##### b. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 7-139.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Director of Community and Financial Services shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, state or other source, in order to administer Section 7-141.

c. Information to be Obtained and Maintained

Obtain and maintain for public inspection and make available as needed for Flood Insurance Policies:

- (1) the certified elevation required in Section 7-141.1C (1); (residential)
- (2) the certification required in Section 7-141C (2); (shallow flooding)
- (3) the floodproofing certification required in Section 7-141.1C (3); (non-residential)
- (4) the certified elevation required in Section 7-141.5b (subdivision)
- (5) the anchoring certification required in Section 7-141.5a (mobile home)

d. Alteration of Watercourses

- (1) Notify adjacent communities and the California Water resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

e. Interpretation of FIRM Boundaries:

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (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 7-142.

f. Maintenance of Flood Protection Measures

The maintenance of any and all flood protection measures, (levee, dikes, dams or reservoirs), will be required of the jurisdiction where such measures provide protection. If these measures are privately owned, an operation or maintenance plan will be required of the owner to be on file with the Director of Community and Financial Services.

g. Hazard Mitigation Plan

The local agency or board responsible for reviewing all proposals for new development shall weigh all requests for future flood plain development against community's General Plan. Consideration of the following elements is required before approval:

- (1) Determination if proposed development is in or affects a known flood plain;
- (2) Inform the public of the proposed activity in accordance with normal noticing procedures.

- (3) Determine if there is a practicable alternative or site for the proposed activity;
- (4) Identify impact of the activity on the flood plain;
- (5) Provide a plan to mitigate the impact of the activity with provisions in Section 7-140.3a(4).

#### SECTION 7-141 PROVISIONS FOR FLOOD HAZARD REDUCTION

##### SECTION 7-141.1

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

##### a. Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All mobile homes shall meet the anchoring standards of Section 7-141.5a.

##### b. Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (2) All elements that function as a part of the structure, such as furnace, hot water heater, air conditioner, etc., shall be elevated to or above the base flood elevation or depth number specified on the FIRM.

##### c. Elevation and Floodproofing

- (1) New construction and substantial improvement of any structure shall have the lowest habitable floor, including basement, elevated to or above the base flood elevation. Non-residential structures may meet the standards in Section 7-141.1C (3). Upon completion of the structure, the elevation of the lowest habitable floor including basement shall be certified by a registered professional engineer or surveyor or verified by the local building inspector that elevation requirements have been met. Notification of compliance shall be recorded as set forth in Section 7-140.3C (1).
- (2) New construction and substantial improvement of any structure in Zone AO shall have the lowest floor, including basement, elevated to or above the depth number specified on the FIRM. If there is no depth number on the FIRM, the lowest floor, including basement, shall be elevated to a depth of one foot above the highest adjacent grade. Non-residential structures may meet standards in Section 7-141.1C (3). Upon completion of the structure, compliance to the elevation requirement shall be certified by a registered professional engineer or surveyor or verified by the local building inspector. Notification of compliance shall be recorded as set forth in Section 7-140.3C (2).

(3) Non-residential construction shall either be elevated in conformance with Section 7-141.1C or together with attendant utility and sanitary facilities.

- (a) be floodproofed so that below the base flood level 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 bouyancy, and;
  - (c) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 7-140.3C (3);
- (4) Mobile homes shall meet the above standards and also the standards in Section 7-141.5;

#### SECTION 7-141.2 STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT

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

#### SECTION 7-141.3 STANDARDS FOR UTILITIES

- a. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- b. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### SECTION 7-141.4 STANDARDS FOR SUBDIVISIONS

- a. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- b. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the official as set forth in Section 7-140.3C (3).
- c. All subdivision proposals shall be consistent with the need to minimize flood damage.
- d. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

- e. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage as set forth in Section 7-140.3A (4). Certification of compliance shall be required of the developer.

SECTION 7-141.5 STANDARDS FOR MOBILE HOMES AND MOBILE HOME PARKS AND SUBDIVISIONS

- a. All mobile homes and additions to mobile homes shall be anchored to resist flotation, collapse, or lateral movement by one of the following methods:
  - (1) by providing an anchoring system designed to with stand horizontal forces of 15 pounds per square foot and uplift forces of 9 pounds per square foot; or
  - (2) by the anchoring of the unit's system, designed to be in compliance to the Department of Housing and Development Mobile Home Construction and Safety Standards.
  - (3) As set forth in Section 7-140.3C (5), certification meeting the standards above is required of the installer or state agency responsible for regulating the placement, installation and anchoring of individual mobile home units.
- b. Mobile Home Parks and Mobile Home Subdivisions

The following standards are required for (a) mobile homes not placed in mobile home parks or subdivisions, (b) new mobile home parks or subdivisions, (c) expansions to existing mobile home parks or subdivisions and, (d) repair, reconstruction, or improvements to existing mobile home parks or subdivisions that equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

- (1) Adequate surface drainage and access for a hauler shall be provided.
- (2) All mobile homes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile home is at or above the base flood level. If elevated on pilings:
  - (a) the lots shall be large enough to permit steps;
  - (b) the pilings shall be placed in stable soil no more than ten feet apart and,
  - (c) reinforcement shall be provided for pilings more than six feet above the ground level.
- c. No mobile home shall be placed in a floodway, except in an existing mobile home park or existing mobile home subdivision.

- d. Certification of compliance is required of the developer responsible for the plan or state agency responsible for regulating mobile home placement.

#### SECTION 7-141.6 FLOODWAYS

Located within areas of special flood hazard established in Section 7-139.2 are areas designated as 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 provision applies:

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

#### VARIANCE PROCEDURE

#### SECTION 7-142.1 APPEAL BOARD

- a. The City Council shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- b. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Director of Community and Financial Services of this ordinance.
- c. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - (1) the danger that materials may be swept onto other lands to the injury of others;
  - (2) the danger to life and property due to flooding or erosion damage;
  - (3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) the importance of the services provided by the proposed facility to the community;
  - (5) the necessity to the facility of a waterfront location, where applicable;
  - (6) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
  - (7) the compatibility of the proposed use with existing and anticipated development;

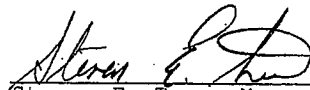
- (8) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
  - (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - (11) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- d. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-11) in Section 7-142.1C have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
  - e. Upon consideration of the factors of Sections 7-142.1C and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
  - f. The Director Community and Financial Services shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

#### SECTION 7-142.2 Conditions for Variances

- a. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historical Places or the State Inventory of Historical Places, without regard to the procedures set forth in the remainder of this section.
- b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued upon:
  - (1) a showing of good and sufficient cause such as renovation, rehabilitation or reconstruction. Variances issued for economic considerations, aesthetics or because variances have been used in the past are not good and sufficient cause.



- (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
- (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws ordinances.
- e. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

  
Steven E. Tree, Mayor

ATTEST:

  
C. G. Huffaker, City Clerk

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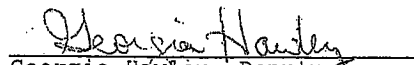
STATE OF CALIFORNIA)  
(SS  
COUNTY OF TULARE )

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville do hereby certify that the foregoing ordinance is a true and correct copy of Ordinance No. 1285, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 21th day of June, 1983, and that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance became effective on the 21st day of July, 1983, and that said ordinance is now in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

AYES: COUNCILMEN:  
NOES: COUNCILMEN:  
ABSENT: COUNCILMEN:

C. G. HUFFAKER, City Clerk

  
Georgia Hawley, Deputy

ORDINANCE NO. 1397

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF PORTERVILLE AMENDING SECTIONS 7-138 THRU 7-142  
OF THE MUNICIPAL CODE, FLOOD DAMAGE PREVENTION  
CODE, AND REPEALING ORDINANCE NO. 1285

WHEREAS: 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 the City of Porterville does ordain as follows:

WHEREAS: The City Council of the City of Porterville has made the following findings of fact:

- A. The flood hazard areas of the City of Porterville 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 the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

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

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To insure that potential buyers are notified that property is in an area of special flood hazard; and

- H. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

WHEREAS: In order to accomplish its purposes, this ordinance includes methods and provisions for:

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

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN AS FOLLOWS:

- A. That Chapter Seven, Article XIV, Sections 7-138 thru 7-142 of the Municipal Code of the City of Porterville be amended as follows:

#### ARTICLE XIV. FLOOD DAMAGE PREVENTION CODE

##### Section 7-138. Definitions.

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

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"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.

"Area of special flood hazard" - See "Special flood hazard area:."

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

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

"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.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of flood waters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a

lake or other body of water as a result of erosion or 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 flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

"Flood Boundary and Floodway Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

"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 flood hazard and the floodway.

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

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Floodplain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations in any combination thereof, which provide state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"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.

"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".

"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, but does not include long-term storage or related manufacturing facilities.

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

"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 ordinance.

"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 connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction" means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by this community.

"One hundred year flood" or 100-year flood means a flood which has a one percent annual probability of being equalled or exceeded. It is identical to the "base flood", which will be the term used throughout this ordinance.

"Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

"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 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 the ordinance or otherwise deterring future similar violations, or reducing 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.

"Special flood hazard area (SFHA)" means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99 or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. 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 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.

Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) before the improvement or repair is started; or
- (2) if the structure has been damaged, and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

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

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

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

#### Section 7-139. General Provisions.

- (1) LANDS TO WHICH THIS ORDINANCE APPLIES. This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Porterville.
- (2) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard, identified by the Federal Emergency Management Agency or the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for the City of Porterville dated January 18, 1983", with an accompanying Flood Insurance Rate Map, together with subsequent revisions, is hereby adopted by reference and declared to be a part of this ordinance. This Flood Insurance Study is on file at 291 N. Main Street, Porterville. This Flood Insurance Study is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Porterville City Council by the Floodplain Administrator.
- (3) COMPLIANCE. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Porterville City Council from taking such lawful action as is necessary to prevent or remedy any violation.

- (4) ABROGATION AND GREATER RESTRICTIONS. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (5) INTERPRETATION. In the interpretation and application of this ordinance, all provisions shall be:
- (a) Considered as minimum requirements;
  - (b) Liberally construed in favor of the governing body;
  - (c) Deemed neither to limit nor repeal any other powers granted under state statutes; and
  - (d) Subject to modification by resolution of the City Council.
- (6) WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this ordinance 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 ordinance 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 ordinance shall not create liability on the part of the City of Porterville, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- (7) SEVERABILITY. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

Section 7-140. Administration.

- (1) ESTABLISHMENT OF DEVELOPMENT PERMIT. A Development Permit shall be obtained before construction or development begins within any area of special flood hazards, established in Section 7-139(2). Application for a Development Permit shall be made on forms furnished by the Floodplain Administrator 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:
- (a) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone A0, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures.
  - (b) Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
  - (c) All appropriate certifications listed in Section 7-140(3) of this ordinance; and
  - (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(2) DESIGNATION OF THE LOCAL ADMINISTRATOR. The Director of Community Development & Services is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

(3) DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR. Duties and responsibilities of the Director of Community Development & Services shall include but not be limited to:

(a) Permit review.

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. All other required state and federal permits have been obtained.
3. The site is reasonably safe from flooding.
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 been designated. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.
5. Review all proposals for the development of 5 parcel or more to assure that the flood discharge exiting the development after construction is adequately controlled and the method of disposal is approved by the City Engineer.

(b) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 7-139(2), the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 7-141. Any such information shall be submitted to the Porterville City Council for adoption.

(c) Whenever a watercourse is to be altered or relocated:

1. Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

(d) Obtain and maintain for public inspection and make available as needed.

1. the certification required in Section 7-141(1)(c)1. (floor elevations);
2. the certification required in Section 7-141(1)(c)2. (elevations in areas of shallow flooding);



3. the certification required in Section 7-141(1)(c)(3)C. (elevation or flood-proofing of nonresidential structures);
  4. the certification required in Section 7-141(1)(c)4.A. or 7-141(1)(c)4.B.;
  5. the certified elevation required in Section 7-141(4)(b) (subdivision standards); and
  6. the certification required in Section 7-141(6)(a) (floodway encroachments).
- (e) Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards, 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 7-142(1).
- (f) Redesignate any area, within his jurisdiction, as a special flood hazard area if, in his opinion, the area in question warrants special consideration (i.e. local depressed area, etc).

The person contesting the redesignation of an area shall be given a reasonable opportunity to appeal the designation as provided in Section 7-142(1).

- (g) Maintenance of Flood Protection Measures.

The maintenance of any and all flood protection measures, (levee, dikes, dams or reservoirs), will be required of the jurisdiction where such measures provide protection. If these measures are privately owned, an operation or maintenance plan will be required of the owner to be on file with the Director of Community Development & Services.

- (h) Hazard Mitigation Plan

The local agency or board responsible for reviewing all proposals for new development shall weigh all requests for future flood plain development against community's General Plan. Consideration of the following elements is required before approval:

- (1) Determination if proposed development is in or affects a known flood plain.
  - (2) Inform the public of the proposed activity in accordance with normal noticing procedures.
- (i) Take action to remedy violations of this ordinance as specified in Section 7-139(3).

#### Section 7-141. Provisions For Flood Hazard Reduction.

- (1) In all areas of special flood hazards, the following standards are required:

- (a) Anchoring.

1. All new construction and substantial improvements shall be 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 7-141(5).

(b) Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. 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.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(c) Elevation and Floodproofing.

1. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards in Section 7-141(c)3. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.
2. New construction and substantial improvement of any structure in Zone AH or AO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least two feet if no depth number is specified. For the purpose of this ordinance, new construction and substantial improvement of any structure in Zone A located within the following described boundaries shall have the lowest floor including basement, elevated to a depth of one foot above the highest adjacent grade.

North boundary - Westfield Avenue  
South boundary - Henderson Avenue  
East boundary - Prospect Street  
West boundary - Newcomb Street

Nonresidential structures may meet the standards in Section 7-141(1)(c)3. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.

3. Non residential construction shall either be elevated in conformance with Section 7-141(1)(c)1. or 2. or together with attendant utility and sanitary facilities:
  - A. Be floodproofed so that below the base flood level 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 this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.
- 4. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - A. Either 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 floodwaters; or
  - B. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.
- 5. Manufactured homes shall also meet the standards in Section 7-141(5).

(2) STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT.

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

(3) STANDARDS FOR UTILITIES.

- (a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- (b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) STANDARDS FOR SUBDIVISIONS.

- (a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- (b) All final subdivision plans will provide the elevation of proposed structures(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the official as set forth in Section 7-140(3)(d)3.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

- (e) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage as set forth in Section 7-140(3)(a)5. Certification of compliance shall be required of the developer.
- (5) STANDARDS FOR MANUFACTURED HOMES. All new and replacement manufactured homes and additions to manufactured homes shall:
  - (a) Be elevated so that the lowest floor is at or above the base flood elevation; and
  - (b) Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement, if the manufactured home site is below the base flood elevation. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (6) FLOODWAYS. Located within areas of special flood hazard established in Section 7-139(2) are areas designated as 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:
  - (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - (b) If Section 7-141(6)(a) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 7-141.

Section 7-142 Variance Procedure.

(1) APPEAL BOARD.

- (a) The City Council of the City of Porterville shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- (b) The City Council 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 ordinance.
- (c) In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:
  - 1. the danger that materials may be swept onto other lands to the injury of other;
  - 2. the danger of life and property due to flooding or erosion damage;
  - 3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 4. the importance of the services provided by the proposed facility to the community;
  - 5. the necessity to the facility of a waterfront location, where applicable;
  - 6. The availability of alternative locations for the

proposed use which are not subject to flooding or erosion damage;

7. the compatibility of the proposed use with existing and anticipated development;
  8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. the safety of access to the property in time of flood for ordinary and emergency vehicles;
  10. the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
  11. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- (d) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 7-142(1)(c)1. through 7-142(1)(c)11. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (e) Upon consideration of the factors of Section 7-142(1)(c) and the purposes of this ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (f) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(2) CONDITIONS FOR VARIANCES.

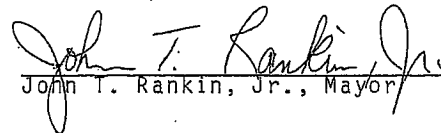
- (a) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (b) Variances shall not be issued within an designated floodway if any increase in flood levels during the base flood discharge would result.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) Variances shall only be issued upon:
  1. a showing of good and sufficient cause;
  2. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with existing local laws or ordinances.
- (e) Variances may be issued for new construction and substantial improvements and for other development

necessary for the conduct of a functionally dependent use provided that the provisions of Sections 7-142(2)(a) through 7-142(2)(d) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

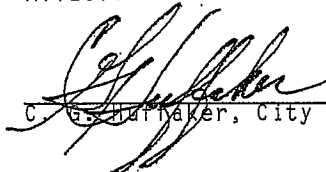
- (f) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Floodplain Board in the office of the Tulare County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

B. That Ordinance No. 1285 of the City of Porterville is hereby repealed.

This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

  
John T. Rankin, Jr., Mayor

ATTEST:

  
C. G. Huffaker, City Clerk

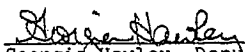
STATE OF CALIFORNIA)  
(SS  
COUNTY OF TULARE )

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville, do hereby certify that the foregoing ordinance is a full, true and correct copy of Ordinance No. 1397, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 15th day of March, 1988, and that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance became effective on the 14th day of April, 1988, and that said ordinance is now in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

COUNCILMEN	AYES	NOES	ABSENT
PRUITT	X		
BONDS	X		
LEAVITT	X		
ENSSLIN	X		
RANKIN	X		

C. G. HUFFAKER, City Clerk

By:   
Georgia Hawley, Deputy City Clerk

ORDINANCE NO. 1777

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
AMENDING CHAPTER 7, ARTICLE XIV – FLOOD DAMAGE PREVENTION CODE,  
OF THE PORTERVILLE MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES HEREBY ORDAIN AS  
FOLLOWS:

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**Section 1.** *Purpose:* The purpose of this ordinance is to address changes made by the Federal Emergency Management Agency to the rules and regulations governing the National Flood Insurance Program. As a participant in the NFIP, the City of Porterville must adopt and enforce a floodplain management ordinance which complies with the rules and regulations of the NFIP, therefore revisions to Chapter 7, Article XIV, Flood Damage Prevention Code, are necessary.

**Section 2.** Chapter 7, Article XIV, Flood Damage Prevention Control Code, of the Porterville Municipal Code is hereby amended to read as follows:

**7-138 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

**7-138.1 STATUTORY AUTHORIZATION.**

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

**7-138.2 FINDINGS OF FACT.**

- A. The flood hazard areas of the City of Porterville 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 contributes to flood losses.

**7-138.3 STATEMENT OF PURPOSE.**

It is the purpose of this ordinance 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 designed to:

- 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 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.

#### **7-138.4      METHODS OF REDUCING FLOOD LOSSES.**

In order to accomplish its purposes, this ordinance includes regulations 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 floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- 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 floodwaters or which may increase flood hazards in other areas; and

#### **7-139 DEFINITIONS**

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

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

**"Appeal"** means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

**"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 hazard"** - See "Special flood hazard area."

**"Base flood"** means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

**"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 June 2, 2011.

**"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).

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**"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); and
2. The condition resulting from 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.

**"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 official designated 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 ordinance 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.

**"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 Section 7-143 of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Porterville 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"** means the City Council of the City of Porterville, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

**"Hardship"** as related to Section 7-143 of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The Governing Body 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.

**"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 without approved programs.

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**"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 non-elevation design requirements, including, but not limited to:
  - a. The flood openings standard in Section 7-142.1.C.3;
  - b. The anchoring standards in Section 7-142.1.A;
  - c. The construction materials and methods standards in Section 7-142.1.B; and
  - d. The standards for utilities in Section 7-142.3.
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"** is defined in the City of Porterville substantial damage/improvement procedures. See Section 7-142.2.B.1.

**"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.

**"New construction"**, for floodplain management purposes, means structures for which the "start of construction" commenced on or after June 2, 2011, 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 June 2, 2011.

**"Obstruction"** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, 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"** or "100-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 Section 7-143 of this ordinance, 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. 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.

**"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.

**"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 the

ordinance 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 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 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture 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 that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

**"Substantial damage"** means 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.

**"Substantial improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 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 ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

**"Violation"** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance 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, 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.

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## **7-140: GENERAL PROVISIONS**

### **7-140.1 LANDS TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Porterville.

### **7-140.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for "The Flood Insurance Rate Map for Tulare County and the Incorporated Areas" dated June 16, 2009, with accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's), dated June 16, 2009, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Governing Body by the Floodplain Administrator. The study, FIRM's and FBFM's are on file at 291 N. Main Street, Porterville, CA 93257, City Hall, Public Works Department.

### **7-140.3 COMPLIANCE.**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the Governing Body from taking such lawful action as is necessary to prevent or remedy any violation.

### **7-140.4 ABROGATION AND GREATER RESTRICTIONS.**

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

### **7-140.5 INTERPRETATION.**

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

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

#### **7-140.6 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance 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 ordinance 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 ordinance shall not create liability on the part of the City Council, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

#### **7-140.7 SEVERABILITY.**

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

### **7-141: ADMINISTRATION**

#### **7-141.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.**

The Public Works Director is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

#### **7-141.2 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:

1. Permit requirements of this ordinance 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;
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 been



designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Porterville; 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.
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**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.

**C. Review, Use and Development of Other Base Flood Data.**

When base flood elevation data has not been provided in accordance with Section 7-140.2, 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 Section 7-142.

NOTE: A base flood elevation may 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.

**D. Notification of Other Agencies.**

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

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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.

**E. Documentation of Floodplain Development.**

Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by Section 7-142.1.C.1 and Section 7-142.5 (lowest floor elevations);
2. Certification required by Section 7-142.1.C.2 (elevation or floodproofing of nonresidential structures);
3. Certification required by Sections 7-142.1.C.3 (wet floodproofing standard);
4. Certification of elevation required by Section 7-142.4.A.3 (subdivisions and other proposed development standards);
5. Certification required by Section 7-142.7.B (floodway encroachments); and
6. 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.

**F. Map Determination.**

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be 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 7-141.4.

**F. Remedial Action.**

Take action to remedy violations of this ordinance as specified in Section 7-140.3.

**G. Biennial Report.**

Complete and submit Biennial Report to FEMA.

**H. Planning.**

Assure community's General Plan is consistent with floodplain management objectives herein.

**7-141.3 DEVELOPMENT PERMIT.**

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A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 7-140.2. Application for a development permit shall be made on forms furnished by the City of Porterville. The applicant shall provide the following minimum information:

**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 7-140.2 or Section 7-141.2.C;
6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 7-142.1.C.2 of this ordinance and detailed in FEMA Technical Bulletin TB 3-93; and
8. Complete Preliminary Elevation Certificate provided by the City of Porterville confirming and stating proposed elevation of lowest floor (including basement) of all structures, including nonresidential structures being floodproofed.

**B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 7-142.1.C.2.**

**C. For a crawl-space foundation, location and total net area of foundation openings as required in Section 7-142.1.C.3 of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.**

**D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.**

**E. All appropriate certifications listed in Section 7-141.2.E of this ordinance.**

**7-141.4 APPEALS.**

The City Council of the City of Porterville 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 ordinance.

## **7-142: PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **7-142.1 STANDARDS OF CONSTRUCTION.**

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

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#### **A. Anchoring.**

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

#### **B. Construction Materials and Methods.**

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

1. 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;
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
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 Floodproofing.**

##### **1. Residential construction.**

All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- a. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
- b. 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 2 feet above the highest adjacent grade if no depth number is specified.

- c. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 7-141.2.C.
- d. In an A zone, without BFE's specified on the FIRM [unnumbered A zone] and not subject to the criteria in Section 7-142.4, elevated to:
  - i. A height of at least two (2) feet above the highest adjacent grade, or
  - ii. Eighteen (18) inches above the highest top of curb elevation across the front of the lot, or
  - iii. For the purpose of this article, construction completed prior to [Date of Adoption] of any structure in zone A located within the following described boundaries shall have the lowest floor including basement, elevated to a depth of one foot (1') above the highest adjacent grade:  
  
North boundary - Westfield Avenue  
South boundary - Henderson Avenue  
East boundary - Prospect Street  
West boundary - Newcomb Street  
  
New development or substantial improvements in this Zone shall comply with the requirements of NFIP program and as outlined in this Ordinance. Said boundary is shown on FIRM Panel 1633 of 2550 (Map Number 06107C1633E), Effective Date of June 16, 2009, or
  - iv. Said base flood elevation shall be determined by one of the methods under Section 7-141.2.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 Section 7-142.1.C.1 or:

- a. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 7-142.1.C.1, 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 civil engineer or architect that the standards of Section 7-142.1 C.2.a & b 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 meet the following minimum criteria:

---

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;
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.**

a. See Section 7-142.5.

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 Section 7-142.1.C.3. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 7-142.1.B.
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 7-139, 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;
  - 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 7-142.7; and
  - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 7-142.1.C.3.
2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 7-142.1.

#### **7-142.2 STANDARDS FOR ELEVATION CERTIFICATES.**

- A. Certification of the elevation of the lowest floor or floodproofed elevation is required when the footings are set and finished floors are established. Written confirmation shall be provided to the Chief Building Official before proceeding to the next phase of construction. Failure to submit such written certification shall be cause to issue a stop-work order for the project. An Elevation Certificate shall be provided to the floodplain administrator and Chief Building Official prior to issuance of a Certificate of Occupancy. As built plans certifying the elevation of the lowest adjacent grades shall also be required.
- B. Except within zones A and AO, the benches shown on the FIRM shall be used to calculate the elevation of the lowest floor.
- C. If fill is used to elevate a structure above the base flood elevation, the permit holder may apply for a Letter of Map Revision (LOMR), as set forth in Section 7-141.2.

#### **7-142.3 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 waters.

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

#### **7-142.4 STANDARDS FOR SUBDIVISIONS AND OTHER PROPOSED DEVELOPMENT.**

- A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
  - 1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
  - 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
  - 3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
    - a. Lowest floor elevation.
    - b. Pad elevation.
    - c. Lowest adjacent grade.
- B. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
- C. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- D. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

#### **7-142.5 STANDARDS FOR MANUFACTURED HOMES.**

- A. All manufactured homes that are placed or substantially improved, 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 upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
  - 1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.



- B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 7-142.5.A 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 or 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 36 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.

#### **7-142.6 STANDARDS FOR RECREATIONAL VEHICLES.**

- A. All recreational vehicles placed in Zones A1-30, AH, and AE will either:

1. Be on the site for fewer than 180 consecutive days; 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
3. Meet the permit requirements of Section 7-141.3 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 7-142.5.A.

#### **7-142.7 FLOODWAYS.**

Since floodways 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 Porterville.
- B. Within an adopted regulatory floodway, the City of Porterville shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- C. If Sections 7-142.7.A & B are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 7-142.

## 7-143: VARIANCE PROCEDURE

### 7-143.1 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 ordinance 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 ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the **Governing Body** 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 ordinance 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.

### 7-143.2 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 7-141 and 7-142 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of "**historic structures**" (as defined in Section 7-149 of this ordinance) 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 ordinance. For example, in the case of variances to an elevation requirement, this means the Governing Body 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 Governing Body 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 a community official that:

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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 Administrator in the Office of the Tulare 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 Emergency Management Agency.

#### **7-143.3 APPEAL BOARD.**

A. In passing upon requests for variances, the Governing Body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:

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
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:

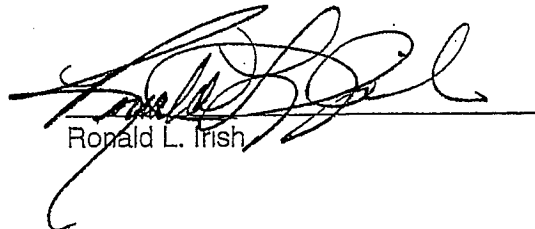
1. Showing of good and sufficient cause;
2. Determination that failure to grant the variance would result in exceptional "**hardship**" to the applicant; and
3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "**Public safety and nuisance**"), cause "**fraud and victimization**" of the public, or conflict with existing local laws or ordinances.

**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 Sections 7-143.3.A through 7-143.3.D 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.

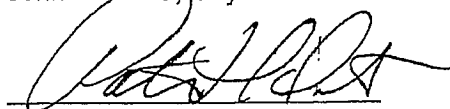
**D.** Upon consideration of the factors of Section 7-143.2.A and the purposes of this ordinance, the Governing Body may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

**Section 3.** This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

APPROVED, PASSED AND ADOPTED this 3<sup>rd</sup> day of May, 2011.

  
Ronald L. Irish

ATTEST:  
John D. Lottis, City Clerk

  
By: Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA     )  
CITY OF PORTERVILLE    )     (SS)  
COUNTY OF TULARE     )

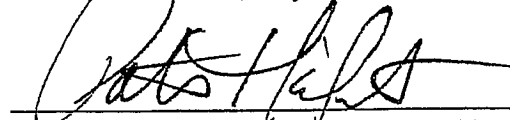
I, JOHN D. LOLLIS, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1777, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 3<sup>rd</sup> day of May, 2011, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to become effective June 2, 2011, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

COUNCIL:	IRISH	HAMILTON	McCRACKEN	WARD	SHELTON
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					

JOHN D. LOLLIS, City Clerk



By: Patrice Hildreth, Chief Deputy City Clerk

## DEPARTMENT OF WATER RESOURCES

SOUTH CENTRAL REGION OFFICE  
3374 EAST SHIELDS AVENUE, ROOM 5  
FRESNO, CA 93726-6913



June 22, 2010

Honorable Pete V. McCracken  
Mayor of the City of Porterville  
City Hall  
291 North Main Street  
Porterville, California 93258

Dear Mayor McCracken:

Thank you for the cooperation and courtesy your staff, Michael Reed and Javier Sanchez, extended to Amanda Peisch-Derby of my staff during the Community Assistance Visit (CAV) on May 18, 2010. The Department of Water Resources (DWR), on behalf of the Federal Emergency Management Agency (FEMA), conducted the visit to evaluate how the city is administering its floodplain management program under the National Flood Insurance Program (NFIP). A copy of the CAV report is enclosed. We hope that the meeting was as useful and informative for your staff as it was for our Department.

Based on the CAV, it was determined that the city's floodplain management regulations located under "Ordinance No. 1397, Sections 7-138 thru 7-142" of the *Municipal Code, Flood Damage Prevention Code*, adopted on March 15, 1988, does not meet minimum NFIP regulations as specified in "Title 44, *Code of Federal Regulations*, Section 60.3." A draft of the updated ordinance has been requested and is to be provided within **60 days of receipt of this report**. Adoption of the revised ordinance is pertinent to the city's administration and implementation of its floodplain management program and is necessary to remain compliant with the NFIP. Once the ordinance has been adopted, a copy of the ordinance, certified by the city clerk, is to be forwarded to DWR to update its files.

Continued enforcement of the NFIP regulations will ensure the city's good standing in the NFIP and guarantee availability of flood insurance coverage. If you have any questions, please contact Amanda Peisch of my staff at (559) 230-3307.

Sincerely,

  
Brian Smith, Acting Chief  
South Central Region

Enclosure

Mayor McCracken  
June 22, 2010  
Page 2

cc: Ms. Jane Hopkins  
U.S. Department of Homeland Security  
FEMA Region IX  
1111 Broadway Street, Suite 1200  
Oakland, California 94607-4052

Mr. Michael Reed  
City Engineer  
City of Porterville  
291 North Main Street  
Porterville, California 93258

FEDERAL EMERGENCY MANAGEMENT AGENCY  
NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY ASSISTANCE VISIT REPORT			
SECTION I			
NAME OF COMMUNITY: Porterville	STATE: California	I.D. #: 060407	COUNTY: Tulare
VISIT CONDUCTED BY: Amanda Peisch-Derby	AGENCY: Department of Water Resources		DATE OF VISIT: May 18, 2010
SECTION II			
NAME OF LOCAL OFFICIAL: Michael K. Reed		TELEPHONE #: (559) 782-7462	
TITLE: City Engineer		ADDRESS: 291 North Main Street Porterville, California 93257	
SECTION III			
PART A - Findings (Check appropriate column.)		SERIOUS	MINOR
1. Are there any problems with the community's floodplain management regulations?		X	
2. Are there problems with the community's administrative and enforcement procedures?			X
3. Are there engineering or other problems with the maps or flood insurance study?			X
4. Are there any other problems in the community's floodplain management program?			X
5. Are there any problems with the Biennial Report data?			X
6. Are there any programmatic issues or problems identified?			X
<p>7. Have structures been identified as being in violation? (Check appropriate category below.)</p> <p>_____ No violations have been identified.</p> <p><u>  X  </u> A potential violation or violations have been identified.</p> <p>_____ Actions are being taken on the part of the community to remedy the violation(s) identified during the visit.</p>			



This report describes the findings of the May 18, 2010, Community Assistance Visit (CAV) and recommends corrective actions where deficiencies were identified. The recommendations, when implemented, will enable the city to comply with the National Flood Insurance Program (NFIP) requirements as specified in "Title 44, *Code of Federal Regulations*." A CAV is a scheduled visit to an NFIP community to evaluate the effectiveness of local floodplain management practices and to offer assistance if needed. A previous CAV with the city was conducted by the Department of Water Resources (DWR) staff on December 12, 2002.

## **1. Background:**

The city of Porterville is a small rural community nestled against the western edge of the Sierra Nevada foothills in the southern portion of Tulare County. Agriculture supplemented by the Central Valley Water Project has been the major source of economic growth in the area for many years. The city is in the center of a large farming area noted especially for citrus and livestock. Industry has also become a significant factor in the development of the community. The 2009 estimated population for the city is 52,960 residents, based on the estimates provided by the California Department of Finance.

The city of Porterville entered the regular phase of the NFIP on July 18, 1983. The city's Special Flood Hazard Areas (SFHAs) are based on the overflow of the Tule River and Porter Slough. These riverine systems were studied by detailed methods. Sheetflow and ponding caused by runoff from Lewis Hill and Ricky Hill, located to the north and northeast of the city, respectively, were studied using appropriate shallow flooding techniques. The SFHAs are defined as unnumbered A Zones, AO Zones, AH Zones, and an AE Zone with floodway.

There is an isolated unnumbered A Zone, west of Highway 65. Porter Slough is defined as Zone A with a 1 percent annual chance of flood discharge that is contained in the channel. In addition, two isolated unnumbered Zone A's exist further east which result from overflow of Pioneer Ditch and a Zone AO with a 1-foot depth downstream the Zone A. In the northeast portion of the city, east of Main Street near downtown, a Zone AH with Base Flood Elevations (BFEs) are defined with an unnumbered A Zone at the northern portion of the SFHA. In the southern portion of the city, an unnumbered A Zone is defined for Poplar Ditch within the city limits, that crosses in and out of county lands. In addition, several strips of a Zone AE with BFEs exist as the city limits cross in and out of county lands for Lower Tule River, as well. These SFHAs are a result of overflow from the Tule River and are also identified as a floodway where development is prohibited.

According to the *Insurance Summary Report*, dated October 31, 2009, the city has 355 flood insurance policies that have been issued for the following zones: 2 A01-30 & AE, 51 A, 87 AO, 163 AH, and 52 in B, C, or X Zones (30 with preferred policies). The total insurance premiums amount to \$269,975 which is an average premium of \$760 for each policy holder.

## **2. Reference Part A, Questions 1-6:**

### **[1] Floodplain Management Regulations:**

During the last two CAV visits beginning December 30, 1997, the city was requested to update its floodplain management ordinance to bring it into compliance with the minimum NFIP

regulations as specified in "Title 44, *Code of Federal Regulations*, Section 60.3." To date, the city has never completed this request. A draft ordinance was provided to DWR in 2003 following the December 12, 2002 CAV, but it was never adopted by the City Council. The current floodplain management regulations are located under "Ordinance No. 1397, Sections 7-138 thru 7-142 of the *Municipal Code, Flood Damage Prevention Code*," adopted on March 15, 1988. The 2003 draft ordinance was reviewed to check conformance with the minimum NFIP regulations as specified in "Title 44, *Code of Federal Regulations*, Section 60.3." Based on DWR's review, city staff has been requested to revise the draft ordinance so that it reflects the number of changes that have taken place within the current *California Model Floodplain Management Ordinance*, dated December 2006. Mr. Michael Reed, City Engineer, was provided a hardcopy of the *Model Floodplain Management Ordinance*.

The required sections of the *California Ordinance* to revise the draft include:

- Section 3.2 — This section needs to have the community specific information added.
- Section 4.2.D.2 — Requirement to submit new technical data: within six months, notify the Federal Emergency Management Agency (FEMA) of changes in the base flood elevation by submitting technical or scientific data so insurance and floodplain management can be based on current data.
- Section 5.3.A — Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres.

Recommended revisions include:

- Section 4.1 — Add other developments to section language.
- Section 5.1B.1 — Update language for flood resistant materials below the base flood elevation. See the *California Model Floodplain Management Ordinance* for specific language.

In the discussion of updating the city's ordinance, Mr. Reed stated that the City Council was reluctant to update its ordinance because of changes that would impact current homeowners in the unnumbered A Zone SFHA located west of Highway 65. The A Zone area is located in the northwest portion of the city that is bounded by the following described boundaries:

North boundary — Westfield Avenue  
South boundary — Henderson Avenue  
East boundary — Prospect Street  
West boundary — Newcomb Street

The residential area is entirely built-out and consists mainly of older homes that were constructed some 20 years ago.

The city's current ordinance *Section 7-141(1) (C) (2)* states, "...For the purpose of this ordinance, new construction and substantial improvement of any structure in Zone A located within the following described boundaries shall have the lowest floor including basement, elevated to a depth of one foot above the highest adjacent grade." Current NFIP regulations however, require under *Section 60.3(b)(4)* that communities must, "Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as

criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (c)(12), (c)(14), (d)(2), and (d)(3) of this section."

It is recommended that the "Section 7-141(1) (C) (2)" remain in the ordinance, but change "new construction and substantial improvement" to "construction completed prior to [date of the adoption of the amended ordinance]" and add a disclaimer that all new development or substantial improvements must comply with the NFIP criteria that is required for new construction or substantial improvements in Zone A. Regardless of the ordinance language, homeowners in the Zone A will be required to purchase insurance if they carry a mortgage on their home as required by the lender and the language change would not change the requirement for insurance. The insurance rate is based on the current Flood Insurance Rate Map (FIRM), unless the structure is removed through a request with FEMA.

The city's urban storm drain system has been improved in this area. Prior to the improvements, this area was not connected to the storm drain system, although the infrastructure was existing. In 2002, this area was connected. It was recommended that the city provide FEMA with the proper information as stated under the NFIP regulations. Under "Section 65.4 (a)," a community has the right to submit new technical data to request changes to any of the information shown on the effective maps. However, it must be supported by documentation or an analysis done in compliance with NFIP regulations before any changes could be made to the SFHA. It was suggested that the city apply for the Letter of Map Revision (LOMR) to remove the Zone A. Mr. Reed is planning to submit this information to FEMA in the form of a LOMR application, but the ordinance should be updated regardless of the outcome of the LOMR. The city should contact FEMA prior to submitting any information to discuss this issue and make sure all pertinent information is provided in the application.

During the CAV, Mr. Reed was requested to submit a draft ordinance that incorporates the changes to DWR for review **within 60 days from receipt of this report**. Once the city incorporates any comments from DWR, the ordinance will need to be adopted by the City Council. After the ordinance adoption is finalized, a copy of the adopted ordinance, certified by the city clerk, is then to be forwarded to DWR to update its files.

*[2] Administration and Enforcement Procedures:*

Mr. Reed is currently acting as the city's floodplain administrator. A tour of the floodplain areas by DWR staff did not identify any potential violations. All areas within the SFHA have existing development and no visible substantial improvements.

The current procedure to identify property within a SFHA is during the permitting process. The Digital Flood Insurance Rate Maps (DFIRMs) are reviewed for each permit. If the development is within a SFHA, an Elevation Certificate (EC) is required. The city requires that if there is a BFE, a preliminary EC needs to be provided that shows proof of elevation prior to approving a building permit. The final EC is required prior to occupancy. Since most of the SFHAs are developed with the exception of undefined A Zones near the city boundaries, the city uses two feet from top of curb for the building pad elevation for new single residential homes in these SFHAs. For subdivisions, the city reviews the development during the California Environmental Quality Act (CEQA) process. The city will determine if the development is in a flood zone and will establish conditions for development based on the city's ordinance. There are currently two

subdivisions that have been approved with conditions for development in the SFHA for single residential homes in the undefined Zone A. However, no developers have taken interest in the land. For substantial improvements, the Building Official evaluates the structure's value of improvement based on the building code and the assessor's maps to see if it meets or exceeds the threshold. If it does, then the city requires the structure to be elevated to the BFE and ECs provided.

[3] Engineering Flood Maps and Study:

FEMA has recently adopted new countywide DFIRMs for Fresno County and its incorporated communities, under its Map Modernization Program. The maps include a change from the current datum of the National Geodetic Vertical Datum of 1929 to the North American Vertical Datum of 1988. DWR informed the city that the new DFIRMs became final and effective on February 18, 2009. The new FIRM panel numbers for the city are 06107C1630E, 06107C1633E, 06107C1634E, 06107C1635E, 06107C1637E, 06107C1640E, 06107C1641E, 06107C1642E, 06107C1645E, 06107C1655E, 06107C1661E, and 06107C1662E.

[4] Floodplain Management Program: N/A

[5] Biennial Report Data:

Every two years, communities participating in the NFIP must complete and submit a Biennial Report describing the community's progress in the previous two years in implementing floodplain management measures and on its needs for re-mapping and technical assistance. FEMA sends the Biennial Report form to local community officials. Submission of this report is required as part of a community's participation in the NFIP. The last dated Biennial Report on file is for the calendar years of 2002-2003. The 2007-2008 Biennial Report was submitted on May 18, 2010; a copy was provided to DWR.

[6] Programmatic Issues: N/A

3. Section 404, Stafford Act – Hazard Mitigation Grant Program: N/A

4. E.O. 11988, Floodplain Management: N/A

5. Other Findings: N/A

6. Follow-up:

[1] Review a copy of the city's drafted amended ordinance for compliance.

7. Community Action Required:

[1] Submit a draft amended *Floodplain Management Ordinance* to DWR for review prior to adoption. Deadline – August 30, 2010

**Meeting Participants:**

Michael K. Reed	City Engineer, City of Porterville
Javier Sanchez	Assistant City Engineer, City of Porterville
Amanda Peisch-Derby	Engineer, Water Resources, South Central Region, Department of Water Resources

## DEPARTMENT OF WATER RESOURCES

SOUTH CENTRAL REGION OFFICE  
3374 EAST SHIELDS AVENUE, ROOM 5  
FRESNO, CA 93726-6913



June 22, 2010

Honorable Pete V. McCracken  
Mayor of the City of Porterville  
City Hall  
291 North Main Street  
Porterville, California 93258

Dear Mayor McCracken:

Thank you for the cooperation and courtesy your staff; Michael Reed and Javier Sanchez, extended to Amanda Peisch-Derby of my staff during the Community Assistance Visit (CAV) on May 18, 2010. The Department of Water Resources (DWR), on behalf of the Federal Emergency Management Agency (FEMA), conducted the visit to evaluate how the city is administering its floodplain management program under the National Flood Insurance Program (NFIP). A copy of the CAV report is enclosed. We hope that the meeting was as useful and informative for your staff as it was for our Department.

Based on the CAV, it was determined that the city's floodplain management regulations located under "Ordinance No. 1397, Sections 7-138 thru 7-142" of the *Municipal Code, Flood Damage Prevention Code*, adopted on March 15, 1988, does not meet minimum NFIP regulations as specified in "Title 44, *Code of Federal Regulations*, Section 60.3." A draft of the updated ordinance has been requested and is to be provided within **60 days of receipt of this report**. Adoption of the revised ordinance is pertinent to the city's administration and implementation of its floodplain management program and is necessary to remain compliant with the NFIP. Once the ordinance has been adopted, a copy of the ordinance, certified by the city clerk, is to be forwarded to DWR to update its files.

Continued enforcement of the NFIP regulations will ensure the city's good standing in the NFIP and guarantee availability of flood insurance coverage. If you have any questions, please contact Amanda Peisch of my staff at (559) 230-3307.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brian Smith".

Brian Smith, Acting Chief  
South Central Region

Enclosure

Mayor McCracken  
June 22, 2010  
Page 2

cc: Ms. Jane Hopkins  
U.S. Department of Homeland Security  
FEMA Region IX  
1111 Broadway Street, Suite 1200  
Oakland, California 94607-4052

Mr. Michael Reed  
City Engineer  
City of Porterville  
291 North Main Street  
Porterville, California 93258

FEDERAL EMERGENCY MANAGEMENT AGENCY  
NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY ASSISTANCE VISIT REPORT				
SECTION I				
NAME OF COMMUNITY: Porterville	STATE: California	I.D. #: 060407	COUNTY: Tulare	
VISIT CONDUCTED BY: Amanda Peisch-Derby	AGENCY: Department of Water Resources		DATE OF VISIT: May 18, 2010	
SECTION II				
NAME OF LOCAL OFFICIAL: Michael K. Reed	TELEPHONE #: (559) 782-7462			
TITLE: City Engineer	ADDRESS: 291 North Main Street Porterville, California 93257			
SECTION III				
PART A - Findings (Check appropriate column.)		SERIOUS	MINOR	NONE
1. Are there any problems with the community's floodplain management regulations?		X		
2. Are there problems with the community's administrative and enforcement procedures?			X	
3. Are there engineering or other problems with the maps or flood insurance study?				X
4. Are there any other problems in the community's floodplain management program?				X
5. Are there any problems with the Biennial Report data?			X	
6. Are there any programmatic issues or problems identified?				X
<p>7. Have structures been identified as being in violation? (Check appropriate category below.)</p> <p>_____ No violations have been identified.</p> <p><u>  X  </u> A potential violation or violations have been identified.</p> <p>_____ Actions are being taken on the part of the community to remedy the violation(s) identified during the visit.</p>				



This report describes the findings of the May 18, 2010, Community Assistance Visit (CAV) and recommends corrective actions where deficiencies were identified. The recommendations, when implemented, will enable the city to comply with the National Flood Insurance Program (NFIP) requirements as specified in "Title 44, *Code of Federal Regulations*." A CAV is a scheduled visit to an NFIP community to evaluate the effectiveness of local floodplain management practices and to offer assistance if needed. A previous CAV with the city was conducted by the Department of Water Resources (DWR) staff on December 12, 2002.

## **1. Background:**

The city of Porterville is a small rural community nestled against the western edge of the Sierra Nevada foothills in the southern portion of Tulare County. Agriculture supplemented by the Central Valley Water Project has been the major source of economic growth in the area for many years. The city is in the center of a large farming area noted especially for citrus and livestock. Industry has also become a significant factor in the development of the community. The 2009 estimated population for the city is 52,960 residents, based on the estimates provided by the California Department of Finance.

The city of Porterville entered the regular phase of the NFIP on July 18, 1983. The city's Special Flood Hazard Areas (SFHAs) are based on the overflow of the Tule River and Porter Slough. These riverine systems were studied by detailed methods. Sheetflow and ponding caused by runoff from Lewis Hill and Ricky Hill, located to the north and northeast of the city, respectively, were studied using appropriate shallow flooding techniques. The SFHAs are defined as unnumbered A Zones, AO Zones, AH Zones, and an AE Zone with floodway.

There is an isolated unnumbered A Zone, west of Highway 65. Porter Slough is defined as Zone A with a 1 percent annual chance of flood discharge that is contained in the channel. In addition, two isolated unnumbered Zone A's exist further east which result from overflow of Pioneer Ditch and a Zone AO with a 1 foot depth downstream the Zone A. In the northeast portion of the city, east of Main Street near downtown, a Zone AH with Base Flood Elevations (BFEs) are defined with an unnumbered A Zone at the northern portion of the SFHA. In the southern portion of the city, an unnumbered A Zone is defined for Poplar Ditch within the city limits, that crosses in and out of county lands. In addition, several strips of a Zone AE with BFEs exist as the city limits cross in and out of county lands for Lower Tule River, as well. These SFHAs are a result of overflow from the Tule River and are also identified as a floodway where development is prohibited.

According to the *Insurance Summary Report*, dated October 31, 2009, the city has 355 flood insurance policies that have been issued for the following zones: 2 A01-30 & AE, 51 A, 87 AO, 163 AH, and 52 in B, C, or X Zones (30 with preferred policies). The total insurance premiums amount to \$269,975 which is an average premium of \$760 for each policy holder.

## **2. Reference Part A, Questions 1-6:**

### **[1] Floodplain Management Regulations:**

During the last two CAV visits beginning December 30, 1997, the city was requested to update its floodplain management ordinance to bring it into compliance with the minimum NFIP

regulations as specified in "Title 44, *Code of Federal Regulations*, Section 60.3." To date, the city has never completed this request. A draft ordinance was provided to DWR in 2003 following the December 12, 2002 CAV, but it was never adopted by the City Council. The current floodplain management regulations are located under "Ordinance No. 1397, Sections 7-138 thru 7-142 of the *Municipal Code, Flood Damage Prevention Code*," adopted on March 15, 1988. The 2003 draft ordinance was reviewed to check conformance with the minimum NFIP regulations as specified in "Title 44, *Code of Federal Regulations*, Section 60.3." Based on DWR's review, city staff has been requested to revise the draft ordinance so that it reflects the number of changes that have taken place within the current *California Model Floodplain Management Ordinance*, dated December 2006. Mr. Michael Reed, City Engineer, was provided a hardcopy of the *Model Floodplain Management Ordinance*.

The required sections of the *California Ordinance* to revise the draft include:

- Section 3.2 — This section needs to have the community specific information added.
- Section 4.2.D.2 — Requirement to submit new technical data: within six months, notify the Federal Emergency Management Agency (FEMA) of changes in the base flood elevation by submitting technical or scientific data so insurance and floodplain management can be based on current data.
- Section 5.3.A — Require base flood elevation data for subdivision proposals or other developments greater than 50 lots or 5 acres.

Recommended revisions include:

- Section 4.1 — Add other developments to section language.
- Section 5.1B.1 — Update language for flood resistant materials below the base flood elevation. See the *California Model Floodplain Management Ordinance* for specific language.

In the discussion of updating the city's ordinance, Mr. Reed stated that the City Council was reluctant to update its ordinance because of changes that would impact current homeowners in the unnumbered A Zone SFHA located west of Highway 65. The A Zone area is located in the northwest portion of the city that is bounded by the following described boundaries:

North boundary — Westfield Avenue  
South boundary — Henderson Avenue  
East boundary — Prospect Street  
West boundary — Newcomb Street

The residential area is entirely built-out and consists mainly of older homes that were constructed some 20 years ago.

The city's current ordinance *Section 7-141(1) (C) (2)* states, "...For the purpose of this ordinance, new construction and substantial improvement of any structure in Zone A located within the following described boundaries shall have the lowest floor including basement, elevated to a depth of one foot above the highest adjacent grade." Current NFIP regulations however, require under *Section 60.3(b)(4)* that communities must, "Obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to paragraph (b)(3) of this section, as

criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community's FHBM or FIRM meet the standards in paragraphs (c)(2), (c)(3), (c)(5), (c)(6), (c)(12), (c)(14), (d)(2), and (d)(3) of this section."

It is recommended that the "Section 7-141(1) (C) (2)" remain in the ordinance, but change "new construction and substantial improvement" to "construction completed prior to [date of the adoption of the amended ordinance]" and add a disclaimer that all new development or substantial improvements must comply with the NFIP criteria that is required for new construction or substantial improvements in Zone A. Regardless of the ordinance language, homeowners in the Zone A will be required to purchase insurance if they carry a mortgage on their home as required by the lender and the language change would not change the requirement for insurance. The insurance rate is based on the current Flood Insurance Rate Map (FIRM), unless the structure is removed through a request with FEMA.

The city's urban storm drain system has been improved in this area. Prior to the improvements, this area was not connected to the storm drain system, although the infrastructure was existing. In 2002, this area was connected. It was recommended that the city provide FEMA with the proper information as stated under the NFIP regulations. Under "Section 65.4 (a)," a community has the right to submit new technical data to request changes to any of the information shown on the effective maps. However, it must be supported by documentation or an analysis done in compliance with NFIP regulations before any changes could be made to the SFHA. It was suggested that the city apply for the Letter of Map Revision (LOMR) to remove the Zone A. Mr. Reed is planning to submit this information to FEMA in the form of a LOMR application, but the ordinance should be updated regardless of the outcome of the LOMR. The city should contact FEMA prior to submitting any information to discuss this issue and make sure all pertinent information is provided in the application.

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subdivisions that have been approved with conditions for development in the SFHA for single residential homes in the undefined Zone A. However, no developers have taken interest in the land. For substantial improvements, the Building Official evaluates the structure's value of improvement based on the building code and the assessor's maps to see if it meets or exceeds the threshold. If it does, then the city requires the structure to be elevated to the BFE and ECs provided.

[3] Engineering Flood Maps and Study:

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[6] Programmatic Issues: N/A

**3. Section 404, Stafford Act – Hazard Mitigation Grant Program: N/A**

**4. E.O. 11988, Floodplain Management: N/A**

**5. Other Findings: N/A**

**6. Follow-up:**

- [1] Review a copy of the city's drafted amended ordinance for compliance.

**7. Community Action Required:**

- [1] Submit a draft amended *Floodplain Management Ordinance* to DWR for review prior to adoption. **Deadline – August 30, 2010**

**Meeting Participants:**

Michael K. Reed                      City Engineer, City of Porterville

Javier Sanchez                      Assistant City Engineer, City of Porterville

Amanda Peisch-Derby              Engineer, Water Resources, South Central Region,  
Department of Water Resources

