



City of Riverbank

**Planning Commission Meeting**  
City Hall North Council Chambers  
6707 Third Street • Riverbank • CA 95367

**Agenda**  
**Tuesday, July 19, 2016 – 6:00 P.M.**

<b><u>CALL TO ORDER:</u></b>	<b>Chair:</b>	<b>Villapudua</b>
<b><u>ROLL CALL:</u></b>	<b>Chair:</b>	<b>Villapudua</b>
	<b>Vice Chair:</b>	<b>McKinney</b>
	<b>Commissioner:</b>	<b>King</b>
	<b>Commissioner:</b>	<b>Stewart</b>
	<b>Commissioner:</b>	<b>Tabacco (absent)</b>

**CONFLICT OF INTEREST**

Any Planning Commission/Authority Member and Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

**1. PUBLIC COMMENTS (No action to be taken)**

At this time members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please address the entire Planning Commission Board.

**2. CONSENT CALENDAR**

All items listed on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

**Item 2.A:** Posting of the Agenda. The Agenda for the July 19, 2016, Planning Commission Meeting was posted on the City Community Center bulletin board, City Hall North & South bulletin boards, Post Office, city website and emailed to the Library on July 14, 2016.

**Item 2.B:** Approval of the Agenda. This provides an opportunity for the Planning Commission or Staff to recommend that an item be placed on the agenda for discussion or to adjust the proposed agenda to allow an item to be taken out of order.

**Item 2.C:** Approval of the Minutes. The Minutes of the March 15, 2016 Planning Commission Meeting and May 17, 2016 Planning Commission Meeting, having been read by the individual Commissioners and stands approved as submitted.

**Recommendation:** It is recommended that Planning Commission approve the Consent Calendar by roll call vote.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3<sup>rd</sup> Street, Riverbank, CA during normal business hours. (if technologically possible) at <http://www.riverbank.org/Depts/planning/default.aspx> upon distribution to a majority of the Planning Commission (typically 72 hours prior to the meeting).

**3. PUBLIC NOTICE**

**Item 3.1: Senate Bill 5 (SB5) Zoning Code Amendment Project Description:** The proposed Zoning Code Amendment will amend Title XV: Land Usage, Chapter 151: Flood Plain Management, Chapter 152, Subdivisions, and Chapter 153: Zoning to be consistent with Senate Bill 5, the Central Valley Flood Protection Plan (CVFPP) and the City's Safety Element, which was amended in July 2015. The Zoning Code Amendment adds Section 153.380: 200-Year Flood Protection and will 1) required certain findings to be made to approve any discretionary project or permit that would result in the construction of a new residence within Flood Hazard Zones (100-, 200-, 500-year floodplains); 2) include definitions such as Flood Hazard Zones, urban areas and urbanizing areas, etc.; and 3) amend Chapter 151 and 152 for internal consistency and referencing.

The proposed project is exempt from analysis under the California Environmental Quality Act (CEQA) under the general rule that CEQA applies only to projects that have the potential for causing significant environmental effects, as specified in Section 15061(b)(3). The proposed Code Amendment implements State-mandated requirements related to 200-year flood protection. All future requests for discretionary approvals related to a Project would be required to comply with the City's General Plan, Codes and Regulations and will be subject to CEQA compliance.

**Recommendation:** Approval by roll call vote

**4. PLANNING COMMISSION (Information Only – No Action)**

**Item 4.1:** A Resolution of the City Council of the City of Riverbank Approving and Adopting a 5-year Capital Improvement Plan (CIP) for Fiscal Years 2016-2021. Kathleen Cleek

**5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)**

NONE

**6. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)**

**Item 6.1:** Diamond Bar West – Final Subdivision Map

**Item 6.2:** Hayes 4 Phase 1 – Development Agreement and Initial Study

**Item 6.2:** Monterosso – Final Subdivision Map

**Item 6.3:** Ward Villas – Final Subdivision Map

**Item 6.4:** Diamond Bar East – Final Subdivision Map

**7. NEW BUSINESS (Information Only – No Action)**

**8. ADJOURNMENT – The next regular Planning Commission meeting – August 16, 2016 @ 6:00 p.m.**

*Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3<sup>rd</sup> Street, Riverbank, CA during normal business hours. (if technologically possible) at <http://www.riverbank.org/Depts/planning/default.aspx> upon distribution to a majority of the Planning Commission (typically 72 hours prior to the meeting).*

## AFFIDAVIT OF POSTING

*I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board 72 hours prior to the meeting.*

*Dated this 14<sup>th</sup> day of July, 2016*

*Janet Smallen, Sr. CDS*

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**NOTICE REGARDING AMERICANS WITH DISABILITIES ACT:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Development Services Department at (209) 863-7128. Notification 3 business days before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting [28 CFR 35.102-35.104 ADA Title II].

**NOTICE REGARDING NON-ENGLISH SPEAKERS:** Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank City Planning Commission shall be in English and anyone wishing to address the Planning Commission is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

**GENERAL INFORMATION:** The Riverbank Planning Commission meets on the third Tuesday of each month at 6:00 p.m.

**COMMISSION AGENDAS:** The Planning Commission agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted. Additional documents that are part of this agenda and provided to a majority of the Planning Commission by the City will be made available to the public. The agenda is posted for public review at the City's website [www.riverbank.org](http://www.riverbank.org), at the Development Services Department, and on the exterior of both City Hall North & South buildings bulletin boards, 6707 & 6617 Third Street, Riverbank, CA. Subscription to receive the agenda can be purchased for a nominal fee through the Development Services Department.

**PUBLIC HEARINGS:** In general, a public hearing is an open consideration within a regular meeting of the Planning Commission, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.

**QUESTIONS:** Contact the Developmental Services Department at (209) 863-7128.

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## City of Riverbank Development Services Department

Planning Division ≈ Building Division ≈ Neighborhood Improvement Division

6707 Third Street, Riverbank, CA 95367 Office (209) 863-7128 FAX (209) 869-7126

**PUBLISH DATE:** July 6, 2016

**DEPT:** PLANNING

**LEGAL**

### **CITY OF RIVERBANK NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City of Riverbank Planning Commission will conduct a public hearing to consider the request for an Amendment to the Riverbank Municipal Code, described below at 6:00 p.m. on Tuesday July 19, 2016, in Council Chambers 6707 Third Street, Riverbank, California.

#### **Project Description:**

**Senate Bill 5 (SB5) Zoning Code Amendment Project Description:** The proposed Zoning Code Amendment will amend Title XV: Land Usage, Chapter 151: Flood Plain Management, Chapter 152, Subdivisions, and Chapter 153: Zoning to be consistent with Senate Bill 5, the Central Valley Flood Protection Plan (CVFPP) and the City's Safety Element, which was amended in July 2015. The Zoning Code Amendment adds Section 153.380: 200-Year Flood Protection and will 1) required certain findings to be made to approve any discretionary project or permit that would result in the construction of a new residence within Flood Hazard Zones (100-, 200-, 500-year floodplains); 2) include definitions such as Flood Hazard Zones, urban areas and urbanizing areas, etc.; and 3) amend Chapter 151 and 152 for internal consistency and referencing.

The proposed project is exempt from analysis under the California Environmental Quality Act (CEQA) under the general rule that CEQA applies only to projects that have the potential for causing significant environmental effects, as specified in Section 15061(b)(3). The proposed Code Amendment implements State-mandated requirements related to 200-year flood protection. All future requests for discretionary approvals related to a Project would be required to comply with the City's General Plan, Codes and Regulations and will be subject to CEQA compliance.

**The City of Riverbank will hold a Public Hearing as follows:**

**Planning Commission Meeting  
July 19, 2016 at 6:00 pm  
City Hall Council Chambers - 6707 Third Street - Riverbank, California**

**ALL INTERESTED PARTIES** are invited to attend the public hearing on **July 19, 2016** at the time and place specified above to express opinions or submit evidence for or against the subject matter being considered. Written comments via e-mail to [dkenney@riverbank.org](mailto:dkenney@riverbank.org) by postal service, or hand delivered to **6707 Third Street, Suite A, Riverbank, California, 95367**, will be accepted by the Development Services Department up to 5:00 p.m. on said date. All written comments received by said time will be distributed to the Planning Commission for consideration. Oral comments will be received by the Planning Commission prior to the close of the Public Hearing on the subject matter being considered. The Planning Commission will receive all testimony prior to taking action. Testimony cannot be given over the telephone. If you challenge the City's action on these matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City at, or prior to, the public hearing.

Meeting facilities are accessible to persons with disabilities. Any person requiring special assistance to participate in the meeting should notify the Administration Dept. at (209) 863-7122 or [cityclerk@riverbank.org](mailto:cityclerk@riverbank.org) at least seventy-two (72) hours prior to the meeting. For questions regarding the public hearing matter contact Donna Kenney, Planning & Building Manager, at (209) 863-7124; [dkenney@riverbank.org](mailto:dkenney@riverbank.org).

Any public record materials pertaining to the presentation of the subject matter being considered will be made available for review at the Development Services Counter at 6717 Third Street, Riverbank, and (if technologically possible) at <http://www.riverbank.org/Depts/planning/default.aspx> upon distribution to a majority of the Planning Commission (typically 72 hours prior to the meeting).



City of Riverbank  
**Planning Commission Meeting**  
6707 Third Street • Riverbank • CA 95367

**MINUTES**  
**Tuesday, March 15, 2016**

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

**CALL TO ORDER/ROLL CALL:**

**Present:** Chair Villapudua, Commissioner King and Commissioner Tabacco

**Absent:** Commissioner: McKinney and Stewart

**CONFLICT OF INTEREST:** Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

*Commissioner King stated he would not be able to vote on the minutes from the January 19<sup>th</sup> Special Planning Commission Meeting as he was absent from the meeting.*

**1. PUBLIC COMMENTS (No action to be taken)**

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

*None*

**2. CONSENT CALENDAR**

All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

**Item No. 2.A:** Posting of the March 15, 2016, Planning Commission Meeting.

**ACTION:** *By motion moved/second (Tabacco / King / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

*Ayes: Planning Commissioners: Villapudua, King and Tabacco*

*Nays: None*

*Absent: McKinney and Stewart*

*Abstained: None*

**Item No. 2.B:** The Agenda for the March 15, 2016, Planning Commission Meeting.

**ACTION:** *By motion moved/second (Tabacco / King / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

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*Ayes: Planning Commissioners: Villapudua, King and Tabacco*

*Nays: None*

*Absent: McKinney and Stewart*

*Abstained: None*

**Item No. 2.C:** The Minutes of the February 29, 2016 Special Planning Commission Meeting, was continued until the next Planning Commission Meeting.

**ACTION:** *Item was not voted on and was continued until the next Planning Commission Meeting due to lack of quorum on this item.*

### **3. PUBLIC NOTICE**

**Item 3.1: Lee Sandoval / Proposal for Parcel Map 01-2016. Project Description:** The applicant is requesting to divide an existing parcel containing one dwelling unit into two parcels. The Project is exempt from the requirements of CEQA Guidelines pursuant to Section 15315 Minor Land Divisions. Property is located at 6125 Roselle Avenue, APN: 132-063-001 and is rezoned Single Family Residential (R-1). The General Plan designation for the site is Low Density Residential (LDR).

- Donna M. Kenney introduced item 3.1 and presented the PowerPoint.
- Planning Commission discussed item and asked Donna M. Kenney questions about the project.
- Donna M. Kenney responded to the Planning Commissions questions.
- Public Hearing was opened at 6:16 p.m.
- Applicant Lee Sandoval spoke on behalf of his project.
- Being there were no further comments the Public Hearing was closed

**ACTION:** *By motion moved/second (Tabacco / King / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

*Ayes: Planning Commissioners: Villapudua, King and Tabacco*

*Nays: None*

*Absent: McKinney and Stewart*

*Abstained: None*

**Item 3.2: Mark Wilbur / Diamond Bar West proposal for Architectural and Site Plan Review Application No. 01-2016. Project Description:** The applicant is requesting the Architectural and Site Plan Review of single family dwelling units for 58 lots in the Diamond Bar West subdivision. The architectural review of structures for an approved subdivision is not a Project pursuant to CEQA Guidelines. Property is located at Santa Fe Street and Central Avenue, APNs 062-020-005/-019/-027 and is zoned Planned Development (PD). The General Plan designation for the site is Low Density Residential (LDR).

- Donna M. Kenney presented the staff report and PowerPoint on item 3.2.
- Planning Commission discussed item and asked Donna M. Kenney questions about the project.
- Villapudua asked about the No Parking within cul-de-sacs.

- King asked about the difference of Negative Declaration and Mitigated Negative Declaration.
- Tabacco commented that he liked the single story and front porches.
- Tabacco asked about green areas for the Diamond Bar West and the concern that the residents had to travel to parks.
- Donna M. Kenney responded to the Planning Commissioners questions.
- Villapudua had to leave the meeting early and had excused himself.
- Due to the fact that we had two absent Commissioners and the Chair Villapudua, having to leave early left us with no quorum, to vote on item 3.2.
- Public Hearing was opened at 6:31 p.m.
- Jolene Anderson resident that lives next to the project asked if she would be required to hook up to city sewer and water. Also stated that the sidewalk is taking up her property frontage and her circular driveway will be taken away.
- Gnapp Quen resident that lives next to the project had the same concerns about her sewer and water connections.
- Donna M. Kenney informed the two residents that they would not be required to hook up to city services, unless they made improvements to their property that were over the threshold limit of \$10,000.00.
- Applicant Mark Wilbur spoke on behalf of his project.
- Jerry Anderson resident that lives next to the project asked what the city setbacks are from the street to the house/garage.
- Donna M. Kenney provided the setbacks per our zoning ordinance.
- Being there were no further comments the Public Hearing was closed at 6:39 p.m.

***ACTION: Item 3.2 was Continued until the next Planning Commission Meeting due to lack of quorum.***

**4. COMMISSION ITEMS (Information Only – No Action)**

**Item 4.1:** Update on the Planning Commission Academy held March 4-6, 2016. – Commissioners discussed their thoughts on the Planning Commission Academy they attended.

**5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)**

None

**6. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)**

**Item 6.1:** Diamond Bar West – Final Subdivision Map. Applicants are working on the plans for utilities and streets.

**Item 6.2:** RFP process for comprehensive Zoning Code update, including the Sign Ordinance.

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**7. NEW BUSINESS (Information Only – No Action)**

**Item 7.1:** Crossroads Shopping Center, Pad “C” Update - Panda Express (open), Chipotle (open), Dickey’s BBQ Pit (open), AT&T Store (open), and Five Guys (will open in March).

**Item 7.2:** Crossroads Shopping Center, Pad “G” Update – (next to Bevmo) America’s Tire plans in review.

**8. ADJOURNMENT – There being no further business, the meeting was adjourned at 6:43 p.m.**

ATTEST:

APPROVED:

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Donna M. Kenney  
Recording Secretary

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Carlos Villapudua, Chair  
Planning Commissioner



City of Riverbank  
**Planning Commission Meeting**  
6707 Third Street • Riverbank • CA 95367

**MINUTES**  
**Tuesday, May 17, 2016**

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

**CALL TO ORDER/ROLL CALL:**

**Present:** Vice Chair McKinney, Commissioner King, Commissioner Tobacco and Commissioner Stewart,

**Absent:** Commissioner: Villapudua

**CONFLICT OF INTEREST:** Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

*No one declared a conflict.*

**1. PUBLIC COMMENTS (No action to be taken)**

At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

*None*

**2. CONSENT CALENDAR**

All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

**Item No. 2.A:** Posting of the May 17, 2016, Planning Commission Meeting.

**ACTION:** *By motion moved/second (Stewart / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

*Ayes: Planning Commissioners: Stewart, McKinney, King and Tabacco*

*Nays: None*

*Absent: Villapudua*

*Abstained: None*

**Item No. 2.B:** The Agenda for the May 17, 2016, Planning Commission Meeting.

**ACTION:** *By motion moved/second (Stewart / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

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Ayes: *Planning Commissioners: McKinney, King, Stewart and Tabacco*

Nays: *None*

Absent: *Villapudua*

Abstained: *None*

**Item No. 2.C:** The Minutes of the February 29, 2016 Special Planning Commission Meeting, having been read by the individual Commissioners and stands approved as submitted.

**ACTION:** *By motion moved/second (Stewart / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: *Planning Commissioners: McKinney, Stewart and Tabacco*

Nays: *None*

Absent: *Villapudua*

Abstained: *King*

**Item No. 2.C:** The Minutes of the April 5, 2016 Special Planning Commission Meeting, having been read by the individual Commissioners and stands approved as submitted.

**ACTION:** *By motion moved/second (Stewart / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: *Planning Commissioners: McKinney, King, and Stewart*

Nays: *None*

Absent: *Villapudua*

Abstained: *Tabacco*

**Item No. 2.C:** The Minutes of the March 15, 2016 Planning Commission Meeting, having been read by the individual Commissioners was continued until the next Planning Commission Meeting.

**ACTION:** *Item was not voted on and was continued until the next Planning Commission Meeting due to lack of attendees on this item.*

### **3. PUBLIC NOTICE**

**Item 3.1: Chipotle Mexican Grill, Inc. - Conditional Use Permit No. 01-2016 / Resolution 2016-013**

**Project Description:** Request to approve CUP 01-2016 / Resolution 2016-013 to allow the sale of beer and wine by the glass (Class 41 License – On-Sale Beer and Wine for Bona Fide Public Eating Place). Property is located at 2207 Claribel Rd. Suite A, APN: 075-093-060, within a C-C Community Commercial Zoning District.

- Donna M. Kenney introduced item 3.1 and presented the PowerPoint.
- Public Hearing was opened at 6:15 p.m.
- Duane Kennedy Land Use representative for Chipotle responded to question the Planning Commission had on item.
- Commissioner Tabacco asked about the patio seating and monitoring of alcoholic drinks brought outside.
- Duane Kennedy stated that there are signs that no alcohol is allowed on patio area and staff will be monitoring.

- Vice Chair McKinney asked about staff and training
- General Manager Jordan Kramer stated the average age of the employees is 22 except for one employee is 18, and explained they have a training process for the beer and wine.
- Commissioner King asked a question about the \$250.00 fee that is a condition of the resolution.
- Donna Kenney explained what the fee was for and that all CUP's for serving and selling of alcohol are required to pay the yearly fee of the \$250.00.
- Being there were no further comments the Public Hearing was closed at 6:20 p.m.

**ACTION:** *By motion moved/second (Stewart / Tabacco / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

*Ayes: Planning Commissioners: McKinney, King, Stewart and Tabacco*

*Nays: None*

*Absent: Villapudua*

*Abstained: None*

**4. COMMISSION ITEMS (Information Only – No Action)**

**Item 4.1:** ADDED: Bicycle and Pedestrian Improvements under the Active Transportation Program (ATP).

**5. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)**

None

**6. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)**

**Item 6.1:** Diamond Bar West – Final Subdivision Map.

**Item 6.2:** RFP proposals for comprehensive Zoning Code update have been received and are under review by staff.

**7. NEW BUSINESS (Information Only – No Action)**

**Item 7.1:** Crossroads Shopping Center, Pad “G” America’s Tire (next to Bevmo) – Building permit issued.

**Item 7.2:** Central Valley Autism plans for T.I. - Building permit issued.

**Item 7.3:** Riverbank Central Apartments – Building permit issued.

**Item 7.4:** Diamond Bar West - Master plans for the houses in plan review.

**8. ADJOURNMENT – There being no further business, the meeting was adjourned at 6:27 p.m.**

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ATTEST:

\_\_\_\_\_  
Donna M. Kenney  
Recording Secretary

APPROVED:

\_\_\_\_\_  
Anthony McKinney, Vice Chair  
Planning Commissioner

**CITY OF RIVERBANK  
PLANNING COMMISSION  
STAFF REPORT**

**ITEM NO:** 3.1 **July 19, 2016**

**APPLICANT:** City of Riverbank

**PROJECT:** Ordinance Amendment to repeal Chapter 151: Floodplain Management and substituting it with a new Chapter 151: Floodplain Management, and amend Chapter 152 and Chapter 153 of the Riverbank Municipal Code, to incorporate zoning requirements of California Senate Bill 5 (2007) and associated legislation related to the provision of 200-year flood protection.

**LOCATION:** City-wide

**ENVIRONMENTAL DETERMINATION:** The proposed zoning text amendment is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061, under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no possibility that the proposed zoning amendments in question may have a significant effect on the environment.

**PROJECT PLANNER:** John B. Anderson, Contract Planner

**RECOMMENDATION:** 1. Hold a public hearing; and  
2. Approve Resolution No. 2016-012, recommending the City Council introduce and conduct the first reading of an Ordinance to amend Riverbank Municipal Code Chapter 151, Chapter 152 and Chapter 153 to incorporate zoning requirements of California Senate Bill 5 (2007) and associated legislation related to the provision of 200-year flood protection.

**ACRONYMS:** FEMA – Federal Emergency Management Agency  
DWR – Department of Water Resources  
CVFPB – Central Valley Flood Protection Board  
CVFPP – Central Valley Flood Protection Plan  
ULOP – Urban Level of Flood Protection  
USACE – United States Army Corp of Engineers  
SB 5 – Senate Bill 5

## **I. EXECUTIVE SUMMARY**

This project involves amendments to the City of Riverbank Municipal Code. The proposed Ordinance will amend Chapter 151, Chapter 152, and Chapter 153 of the Riverbank Municipal Code to address the requirements of California Senate Bill 5 (2007) and associated legislation related to provision of 200-year flood protection. Specifically, the proposed Ordinance amends:

- Chapter 151: Flood Plain Management, to include the definition of “Flood Hazard Zone” and add Section 151.48: Development in Flood Hazard Zone to the Chapter.
- Chapter 152: Subdivisions, to add Section 152.012: Subdivisions in Flood Hazard Zones – Required Findings to the Chapter.
- Chapter 153: Zoning, to add Section 135.380: 200-Year Flood Protection to be consistent with Senate Bill 5 and State law.

## **II. BACKGROUND**

The State of California approved Senate Bill 5 (2007) and several related bills that require 200-year flood protection for urban areas. These bills are referred to collectively herein as “the SB 5 Bills.” The SB 5 Bills require that urban and urbanizing areas have 200-year flood protection no later than 2025. Until that time, and after July 2, 2016, certain development is prohibited in areas subject to 200-year flooding (deeper than 3 feet) unless the City certifies that 1) 200-year flood protection is already provided, or 2) a Finding of “Adequate Progress” has been made toward meeting the 200-year flood protection requirement by 2025.

For Riverbank, the 200-year flood plain mapping has not been completed by the Department of Water Resources (“DWR”). Areas subject to the requirements of the SB 5 Bills are areas that are within “Flood Hazard Zone” as defined below.

The SB 5 Bills require the City to incorporate SB 5 requirements into the City’s General Plan and zoning. The City amended its General Plan in July 2015 to meet the SB 5 requirements. The proposed ordinance amendment reflects the requirements of the SB 5 Bills.

## **III. ANALYSIS**

The proposed amendments to the Riverbank Municipal Code add a new Section titled “200-Year Flood Protection”. This Section implements the State-mandated requirements related to development in urban or urbanizing areas within the 200-year floodplain. The proposed amendments also provide clarification to Chapter 151: Floodplain Management and Chapter 152: Subdivisions for internal consistency and cross-referencing within the Riverbank Municipal Code.

The new Section 153.380 “200-Year Flood Protection” includes:

## **200-YEAR FLOOD PROTECTION**

### **§ 153.380 INTENT**

This section implements the requirements of Senate Bill 5 (2007) and related legislation that prohibits approval of urban development in urban and urbanizing areas that are exposed to 200-year flooding risk unless certain findings are made. These requirements are established in the California Government Code Sections 65865.5, 65962 and 66474.5, as amended.

### **§ 153.381 DEFINITIONS**

**200-YEAR FREQUENCY FLOODING.** The level of flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the California Department of Water Resources.

**200-YEAR FLOODPLAIN MAP.** A map approved by the City Engineer for urban and urbanizing areas that depicts geographic areas that may be exposed to 200-year frequency flooding, and, if available, the depth of flooding during a 200-year flooding event.

**ADEQUATE PROGRESS.** Defined in California Government Code Section 65007.

**NEW DEVELOPMENT.** Defined as:

- (1) a development agreement, or
- (2) a tentative subdivision map, or a parcel map for which a tentative map was not required, or
- (3) a discretionary permit or other discretionary entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building, or
- (4) a ministerial permit that would result in the construction of a new residence.

**FLOOD HAZARD ZONE.** An area subject to flooding as delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA), as also defined in Section 151.48.

**URBAN AREAS AND URBANIZING AREAS.** An urban area is a developed area in which there are 10,000 residents or more (California Government Code Section 65007(I)). An urbanizing area is a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years. (California Government Code Section 65007(m)).

**URBAN LEVEL OF FLOOD PROTECTION (ULOP).** Means the level of protection that is necessary to withstand 200-year frequency flooding. ULOP shall not mean shallow flooding or flooding from local drainage that meets the criteria for the national Federal Emergency Management Agency standard of flood protection (Government Code Section 65007).

#### § 153.382 200-YEAR FLOOD PROTECTION REQUIREMENTS FOR NEW DEVELOPMENT

After July 2, 2016, unless that date is amended by the State Legislature, new development shall not be approved where 200-year flooding, as shown on a 200-year map, will exceed 3 feet in depth, or in a flood hazard zones where 200-year floodplain maps have not been approved by the City Engineer, unless the approval authority determines based on substantial evidence in the record that:

(A) The facilities of the State Plan of Flood Control or other flood management facilities protect the new development site to the Urban Level of Flood Protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in non-urbanizing areas; or

(B) Conditions imposed on the new development will protect the property to the Urban Level of Flood Protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in non-urbanizing areas; or

(C) The local flood management agency has made adequate progress on the construction of a flood protection system that will result in flood protection equal to or greater than the Urban Level of Flood Protection in urban and urbanizing areas, or the national Federal Emergency Management Agency standard of flood protection in non-urbanizing areas.

(D) The new development site located in an undetermined risk area has met the urban level of flood protection based on substantial evidence in the record.

## **CHAPTER 151 AND 152**

For internal consistency and appropriate cross-referencing within the Municipal Code, the amendment also adds clarifying language to Chapter 151, Floodplain Management, and adds Section 152.012, Subdivisions in Flood Hazard Zones to Chapter 152.

Chapter 151, Floodplain Management, address 100-year floodplain requirements pursuant to FEMA. Chapter 151 is amended to include:

- Definition of Flood Hazard Zone;
- Lands to which the Floodplain Management Chapter applies; and
- Clarifies that development of land shall not be approved until any applicable findings required in Section 153.380 have been made.

Section 152.012, Subdivisions in Flood Hazard Zones, is added to Chapter 152 of the Riverbank Municipal Code to require the State-mandated findings:

- Subdivisions located in Flood Hazard Zones as defined in Chapter 151, Section 151.05 shall not be approved until the applicable findings required in Chapter 153, Section 153.380: 200-Year Flood Protection have been made.

## **IV. ENVIRONMENTAL DETERMINATION**

The proposed zoning text amendment is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061, under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. There is no possibility that the proposed zoning amendments in question may have a significant effect on the environment.

## **V. FISCAL IMPACT**

The ordinance amendment implements State-mandated requirements for development within Flood Hazard Zones. Staff time to review development projects consistency with the SB 5 Bills will increase. However, these review costs are payed for by the developer / applicant and will not have a negative fiscal impact to the City.

## **VI. PUBLIC NOTICE**

The Planning Commission hearing notice was published in the Riverbank News on July 6, 2016 and posted at City Hall North and South (6707 Third Street and 6617 Third Street, Riverbank) on July 6, 2016.

## VII. RECOMMENDATION

Staff recommends the Riverbank Planning Commission approve Resolution No. 2016-012, recommending to the City Council to adopt the proposed Ordinance to address the requirements of California Senate Bill 5 (2007) and associated legislation related to provisions of 200-year flood protection.

## VIII. ATTACHMENTS:

1. Planning Commission Resolution No. 2016-12  
Exhibit A – Proposed City Council Ordinance No. 2016-XXX (Redline)
2. Chapter 151: Floodplain Management Mark-Up
3. Chapter 152: Subdivisions Mark-Up
4. Chapter 153: Zoning Mark-Up

Respectfully Submitted By:

*John B. Anderson*

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John B. Anderson  
Contract Planner

Attachment 1 - Exhibit A

**PLANNING COMMISSION**

**RESOLUTION NO. 2016-012**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK  
RECOMMENDING TO THE CITY COUNCIL THE APPROVAL OF AN ORDINANCE  
AMENDING THE RIVERBANK MUNICIPAL CODE BY REPEALING IN ITS ENTIRETY CHAPTER  
151: FLOODPLAIN MANAGEMENT OF TITLE XV: LAND USAGE AND SUBSTITUTING IT WITH A  
NEW CHAPTER 151: FLOODPLAIN MANAGEMENT; AND AMENDING CHAPTER 152 AND 153  
TO ADDRESS THE REQUIREMENTS OF CALIFORNIA SENATE BILL 5 (2007) AND  
ASSOCIATED LEGISLATION RELATED TO PROVISION OF 200-YEAR FLOOD PROTECTION  
TO CALIFORNIA URBAN AREAS**

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**WHEREAS**, the City of Riverbank amended the Riverbank General Plan to address the requirements of California Senate Bill 5 (2007) and associated legislation related to provision of 200-year flood protection to California urban areas in July 2016; and

**WHEREAS**, the proposed ordinance amendment implements the requirements of SB 5 and the City of Riverbank's General Plan related to 200-year flood protection; and

**WHEREAS**, the Planning Commission held a public hearing on July 19, 2016, to consider said ordinance and take public comment pursuant to Section 153.232 (A); and

**WHEREAS**, the Planning Commission reviewed and considered, pursuant to the California Environmental Quality Act (CEQA), the proposed ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Section 15061; and

**WHEREAS**, the proposed ordinance is consistent with the following Policy of the General Plan:

*Policy SAFE-1.13: Ensure the City is in compliance with the Central Valley Flood Protection Plan (CVFPP).*

*Implementation Measure SAFE-6: The City shall amend its Zoning Ordinance pursuant to California Government Code §65860.1 to provide consistency with the amendments made to the General Plan pursuant to California Government Code §65302.9 for flood risk management and for compliance with the Central Valley Flood Protection Act of 2008 (and any subsequent amendments).*

**NOW THEREFORE, BE IT RESOLVED** by the City of Riverbank Planning Commission that Ordinance No. XXX-2016 is hereby recommended for approval to the City Council as illustrated in Exhibit A.

**PASSED AND ADOPTED** by the Planning Commission of the City of Riverbank at a regular meeting held on the 19<sup>th</sup> of July, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Approved:

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Carlos Villapudua  
Chairperson, Planning Commission

Attest:

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Donna M. Kenney, Secretary  
Planning and Building Manager

Attachment 2

New Text is shown in underline; deleted text is shown by ~~striketrough~~

## **GENERAL PROVISIONS**

### **§ 151.01 STATUTORY AUTHORIZATION.**

The Legislature of the State of California has in Cal. Gov't Code §§ 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 does hereby adopt the following floodplain management regulations.

(Ord. 2013-002, passed 8-12-13)

### **§ 151.02 FINDINGS OF FACT.**

(A) The flood hazard areas of the city 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, flood-proofed, 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 the flood losses.

(Ord. 2013-002, passed 8-12-13)

### **§ 151.03 STATEMENT OF PURPOSE.**

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned and 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.

(Ord. 2013-002, passed 8-12-13)

### **§ 151.04 METHODS OF REDUCING FLOOD LOSSES.**

In order to accomplish its purposes, this subchapter 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 flood waters;

(D) Control filling, grading, dredging, and other development which may increase flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(Ord. 2013-002, passed 8-12-13)

#### § 151.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**A ZONE.** See **SPECIAL FLOOD HAZARD AREA.**

**ACCESSORY STRUCTURE.** A structure that is either:

(1) Solely for the parking of no more than two cars; or

(2) A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.

**ACCESSORY USE.** A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

**ALLUVIAL FAN.** 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.** 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.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

**AREA OF SHALLOW FLOODING.** 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.** A flood which has a 1% chance of being equaled or exceeded in any given year (also called the **100-YEAR FLOOD**). Base flood is the term used throughout this chapter.

**BASE FLOOD ELEVATION (BFE).** 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% or greater chance of being equaled or exceeded in any given year.

**BASEMENT.** Any area of the building having its floor sub-grade i.e., below ground level on all sides.

**BUILDING.** See **STRUCTURE.**

**DEVELOPMENT.** 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.** 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.** 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 January 27, 1997.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK or SUBDIVISION.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FLOOD, FLOODING, or FLOOD WATER:**

(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).** 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 HAZARD ZONE.** “Flood hazard zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate or minimal hazard on an official Flood Insurance Rate Map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazards, will be free from flooding or flood damage.

**FLOOD INSURANCE RATE MAP (FIRM).** 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.** 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.** Any land area susceptible to being inundated by water from any source. See **FLOODING**.

**FLOODPLAIN ADMINISTRATOR.** The Building Official of the city a power of which is to administer and enforce the floodplain management regulations.

**FLOODPLAIN MANAGEMENT.** 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.** This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations

in any combination thereof which provide standards for preventing and reducing flood loss and damage.

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

**FRAUD AND VICTIMIZATION.** For purposes of § [151.45](#), that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for 50 to 100 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.** 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.** The local governing unit i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

**HARDSHIP.** For the purposes of § [151.45](#), the exceptional hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE.** 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.

**LEVEE.** 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.** 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.** 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 wet flood openings standard in § [151.30\(C\)\(3\)](#);
- (b) The anchoring standards in § [151.30\(A\)](#);
- (c) The construction materials and methods standards in § [151.30\(B\)](#); and
- (d) The standards for utilities in § [151.31](#).

(2) For residential structures, all sub-grade 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.** 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 does not include a **RECREATIONAL VEHICLE**.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE.** Defined in the city substantial damage/improvement procedures. See § [151.04](#).

**MEAN SEA LEVEL.** 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 January 27, 1997 and includes any subsequent improvements to such structures.

**NEW MANUFACTURED HOME PARK or SUBDIVISION.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after January 27, 1997.

**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**. 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**. For the purposes of § [151.06](#), 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**. A vehicle which is:

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

for recreational, camping, travel, or seasonal use.

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

**RIVERINE**. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

**SHEET FLOW AREA**. See **AREA OF SHALLOW FLOODING**.

**SPECIAL FLOOD HAZARD AREA (SFHA)**. An area in the floodplain subject to a 1% 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.** A walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% 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.** A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

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

**WATER SURFACE ELEVATION.** 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.** 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.

(Ord. 2013-002, passed 8-12-13)

#### § 151.06 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city shown in an FHFMM or FIRM as Zone A or AE. ~~all areas of special flood hazards within the jurisdiction of the city.~~

(Ord. 2013-002, passed 8-12-13)

#### § 151.07 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) dated September 25, 2003 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated September 25, 2003, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City

Council by the Floodplain Administrator. The study, FIRMs and FBFMs are on file at Riverbank City Hall Administration, 6707 Third Street, Riverbank, California, 95367.  
(Ord. 2013-002, passed 8-12-13)

§ 151.08 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.  
(Ord. 2013-002, passed 8-12-13)

§ 151.09 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.  
(Ord. 2013-002, passed 8-12-13)

§ 151.10 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:  
(A) Considered as minimum requirements;  
(B) Liberally construed in favor of the governing body; and  
(C) Deemed neither to limit nor repeal any other powers granted under state statutes.  
(Ord. 2013-002, passed 8-12-13)

§ 151.11 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City 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 chapter or any administrative decision lawfully made hereunder.  
(Ord. 2013-002, passed 8-12-13)

ADMINISTRATION

§ 151.20 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The City Manager is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions.  
(Ord. 2013-002, passed 8-12-13)

§ 151.21 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 chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
- (2) All other required state and federal permits have been obtained;
- (3) The site is reasonably safe from flooding;
- (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 one foot at any point within the city; and

(5) All letter of map revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the start of construction definition.

(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.*

(1) When base flood elevation data has not been provided in accordance with § [151.07](#), 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 § [151.30](#).

(2) 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 Insurance Administration, Federal Emergency Management Agency; and

(c) Assure that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained.

(2) Base flood elevation changes due to physical alterations.

(a) Within six 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 LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued on conditional letters of map revision

(CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the start of construction definition.

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

(3) *Changes in corporate boundaries.* Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

(E) *Documentation of floodplain development.* Obtain and maintain for public inspection and make available as needed the following:

- (1) Certification required by §§ [151.22](#) and [151.22\(E\)](#) (lowest floor elevations);
- (2) Certification required by § [151.30\(C\)\(2\)](#) (elevation or floodproofing of nonresidential structures);
- (3) Certification required by § [151.30\(C\)\(3\)](#) (wet floodproofing standard);
- (4) Certification of elevation required by § [151.32\(A\)\(3\)](#) (subdivisions and other proposed development standards);
- (5) Certification required by § [151.35\(B\)](#) (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 determinations.* 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 § [151.23](#).

(G) *Remedial action.* Take action to remedy violations of this chapter as specified in § [151.08](#).

(H) *Biennial report.* Complete and submit biennial report to FEMA.

(I) *Planning.* Assure community's General Plan is consistent with floodplain management objectives herein.

(Ord. 2013-002, passed 8-12-13)

## § 151.22 DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in § [151.07](#). Application for a development permit shall be made on forms furnished by the city. The applicant shall provide the following minimum information:

- (A) Plans in duplicate, drawn to scale, showing:
- (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 § [151.07](#) or § [151.21\(C\)](#);
  - (6) Proposed elevation in relation to mean sea level, of the lowest flood (including basement) of all structures; and

(7) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in § [151.30\(C\)\(2\)](#) and detailed in FEMA Technical Bulletin TB 3-93.

(B) Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in § [151.30\(C\)\(2\)](#).

(C) For a crawl-space foundation, location and total net area of foundation openings as required in § [151.30](#) 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 § [151.21](#).  
(Ord. 2013-002, passed 8-12-13)

### § 151.23 APPEALS.

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 chapter.

(Ord. 2013-002, passed 8-12-13)

## PROVISIONS FOR FLOOD HAZARD REDUCTION

### § 151.30 STANDARDS OF CONSTRUCTION.

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

(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.*

(a) All new construction or substantial improvements of residential structures shall have the lowest flood, including basement:

1. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.

2. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

3. In an A zone, without BFEs specified on the FIRM (unnumbered A zone) elevated to or above the base flood elevation, as determined under § [151.14\(C\)](#).

(b) 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. The 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 to § [151.30\(C\)\(1\)](#); or

(a) Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under § [151.30\(C\)\(1\)](#), 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 § [151.30\(C\)\(2\)\(a\)](#) and (C)(2)(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 flood (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.* See § [151.33](#).

(5) *Garages and low cost accessory structures.*

(a) *Attached garages.*

1. A garage attached to a residential structure, constructed with the garage flood slab below the BFE, must be designed to allow for the automatic entry of flood waters (see § [151.30\(C\)\(3\)](#)). Areas of the garage below the BFE must be constructed with flood resistant materials (see § [151.30\(B\)](#)).

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 (two car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in § [151.05](#), may be constructed such that its flood 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 § [151.35](#); and
  - f. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with § [151.30\(C\)\(3\)](#).
2. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in § [151.30](#).  
(Ord. 2013-002, passed 8-12-13)

§ 151.31 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.  
(Ord. 2013-002, passed 8-12-13)

§ 151.32 STANDARDS FOR SUBDIVISIONS AND OTHER PROPOSED DEVELOPMENT.

- (A) All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivision, greater than 50 lots or five 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; and
    - (c) The 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.  
(Ord. 2013-002, passed 8-12-13)

§ 151.33 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 on a site upon which a manufactured home has incurred substantial damage as the result of a flood, shall 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 division (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.

(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.

(Ord. 2013-002, passed 8-12-13)

§ 151.34 STANDARDS FOR RECREATIONAL VEHICLES.

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

- (A) Be on the site for fewer than 180 consecutive days; or
- (B) 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
- (C) Meet the permit requirements of § [151.22](#) and the elevation and anchoring requirements for manufactured homes in § [151.33](#)(A).

(Ord. 2013-002, passed 8-12-13)

§ 151.35 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 one foot at any point within the city.

(B) Within an adopted regulatory floodway, the city 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 divisions (A) and (B) are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of § [151.30](#).

(Ord. 2013-002, passed 8-12-13)

## VARIANCE PROCEDURE

### § 151.45 NATURE OF VARIANCES.

(A) 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.

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

(C) It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(Ord. 2013-002, passed 8-12-13)

### § 151.46 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 §§ [151.20](#) and [151.30](#) 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 § [151.05](#)) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

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

(D) Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief. **MINIMUM NECESSARY** means to

afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local ordinance.

(E) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Stanislaus County Clerk 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.

(Ord. 2013-002, passed 8-12-13)

#### § 151.47 APPEAL BOARD.

(A) In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, 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

definition of 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 § [151.46](#) 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 § [151.45](#) and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(Ord. 2013-002, passed 8-12-13)

§ 151.48. DEVELOPMENT IN FLOOD HAZARD ZONE

(A) Development of land, including but not limited to Development Agreements, Tentative Subdivision Maps, Parcel Maps, discretionary approvals and ministerial approvals for residential units, shall not be approved until any applicable findings required in Chapter 153, Section 153.382 have been made.

Attachment 3

Subdivisions Chapter 152 Mark-Up

New Text is shown in underline; deleted text is shown by ~~striketrough~~

**Section 152.012 is added to the Riverbank Municipal Code to read as follows:**

Section 152.012 Subdivisions in Flood Hazard Zones

§ 152.012 SUBDIVISIONS IN FLOOD HAZARD ZONES – REQUIRED FINDINGS

Subdivisions located in Flood Hazard Zones as defined in Chapter 151, Section 151.05 shall not be approved until the applicable findings required in Chapter 153, Section 153.382: 200-Year Flood Protection have been made.

Attachment 4

New Text is shown in underline; deleted text is shown by ~~striketrough~~

**Section 153.380 is added to the Riverbank Municipal Code to read as follows:**

Section 153.380 200-Year Flood Protection

**200-YEAR FLOOD PROTECTION**

**§ 153.380 INTENT**

This section implements the requirements of Senate Bill 5 (2007) and related legislation that prohibits approval of urban development in urban and urbanizing areas that are exposed to 200-year flooding risk unless certain findings are made. These requirements are established in the California Government Code Sections 65865.5, 65962 and 66474.5, as amended.

**§ 153.381 DEFINITIONS**

**200-YEAR FREQUENCY FLOODING.** The level of flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the California Department of Water Resources.

**200-YEAR FLOODPLAIN MAP.** A map approved by the City Engineer for urban and urbanizing areas that depicts geographic areas that may be exposed to 200-year frequency flooding, and, if available, the depth of flooding during a 200-year flooding event.

**ADEQUATE PROGRESS.** Defined in California Government Code Section 65007.

**NEW DEVELOPMENT.** Defined as:

- (1) a development agreement, or
- (2) a tentative subdivision map, or a parcel map for which a tentative map was not required, or
- (3) a discretionary permit or other discretionary entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building, or
- (4) a ministerial permit that would result in the construction of a new residence.

**FLOOD HAZARD ZONE.** An area subject to flooding as delineated as either a special hazard area or an area of moderate or minimal hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency (FEMA), as also defined in Section 151.48.

**URBAN AREAS AND URBANIZING AREAS.** An urban area is a developed area in which there are 10,000 residents or more (California Government Code Section 65007(I)). An urbanizing area is a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years. (California Government Code Section 65007(m)).

**URBAN LEVEL OF FLOOD PROTECTION (ULOP).** Means the level of protection that is necessary to withstand 200-year frequency flooding. ULOP shall not mean shallow flooding or flooding from local drainage that meets the criteria for the national Federal Emergency Management Agency standard of flood protection (Government Code Section 65007).

§ 153.382 200-YEAR FLOOD PROTECTION REQUIREMENTS FOR NEW DEVELOPMENT

After July 2, 2016, unless that date is amended by the State Legislature, new development shall not be approved where 200-year flooding, as shown on a 200-year map, will exceed 3 feet in depth, or in a flood hazard zones where 200-year floodplain maps have not been approved by the City Engineer, unless the approval authority determines based on substantial evidence in the record that:

(A) The facilities of the State Plan of Flood Control or other flood management facilities protect the new development site to the Urban Level of Flood Protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in non-urbanizing areas; or

(B) Conditions imposed on the new development will protect the property to the Urban Level of Flood Protection in urban and urbanizing areas or the national Federal Emergency Management Agency standard of flood protection in non-urbanizing areas; or

(C) The local flood management agency has made adequate progress on the construction of a flood protection system that will result in flood protection equal to or greater than the Urban Level of Flood Protection in urban and urbanizing areas, or the national Federal Emergency Management Agency standard of flood protection in non-urbanizing areas.

(D) The new development site located in an undetermined risk area has met the urban level of flood protection based on substantial evidence in the record.