

**BUILDING STANDARDS COMMISSION**

2525 Natomas Park Drive, Suite 130  
Sacramento, California 95833-2936  
(916) 263-0916 FAX (916) 263-0959



October 29, 2015

Chuck Clark  
Building Official  
City of Visalia  
315 East Acequia Ave.  
Visalia, CA 93291

RE: Ordinance #2015-09

Dear Mr. Clark:

This letter is to advise you of our determination regarding the referenced ordinance with express findings received from your agency on October 28, 2015.

Our review finds the submittal to contain one ordinance modifying provisions of the 2013 California Building Standards Code in Title 24, California Code of Regulations (code), and express findings complying with Health and Safety Code Sections 17958.7 and 18941.5. The code modification is accepted for filing and is enforceable. This letter attests only to the satisfaction of the cited law for filing of local code amendment supported by an express finding with the California Building Standards Commission (CBSC). CBSC is not authorized by law to evaluate the merit of the code modification or the express finding.

Local modifications to the code are specific to a particular edition of the code. They must be readopted and filed with CBSC in order to remain in effect when the next triennial edition of the code is published.

On a related matter, should your city receive and ratify Fire Protection District ordinances making modifications to the code, be advised that Health and Safety Code Section 13869.7(c) requires such ratified ordinances and express findings to be filed with the Department of Housing and Community Development, Division of Codes and Standards, State Housing Law Program, rather than CBSC. Also, ordinances making modifications to the energy efficiency standards of the code may require approval from the California Energy Commission pursuant to Public Resources Code Section 25402.1(h)(2).

If you have any questions or need any further information, you may contact me at (916) 263-0916.

Sincerely,

  
Enrique M. Rodriguez  
Associate Construction Analyst

cc: CBSC Chron  
Local Filings

*City of Visalia*



*Community Development*

315 East Acequia Ave., Visalia, CA 93291

Tel: (559) 713-4440 Fax: (559) 713-4812

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**Certified Mail Return Receipt Requested**

October 5, 2015

To: California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, California 95833

Subject: AB 2188 and the City of Visalia's Solar Ordinance (Ordinance 2015-09)

To Whom It May Concern:

Enclosed is a copy of Ordinance 2015-09 adopted by the City of Visalia on September 21, 2015 in compliance with AB2188 Regulations.

If you have any questions please feel free to contact me at (559) 713-4495.

Sincerely,

Chuck Clark, MBA, CBO

Building Official

City of Visalia

(559) 713-4495

Fax (559) 713-4814

[Chuck.Clark@ci.visalia.ca.us](mailto:Chuck.Clark@ci.visalia.ca.us)

Attachments: Ordinance 2015-09

cc: Michelle Nicholson, Chief Deputy City Clerk

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2015 OCT 28 P 3:35  
CALIFORNIA BUILDING  
STANDARDS COMMISSION

# City of Visalia

220 N. Santa Fe St., Visalia, CA 93292



# City Clerk's Office

Tel: (559) 713-4512 Fax: (559) 713-4800

October 2, 2015

I, Michelle Nicholson, Chief Deputy City Clerk of the City of Visalia, do hereby certify that the attached is a true and accurate copy of:

## ORDINANCE 2015-09

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA AUTHORIZING AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

Passed and adopted at a regular Visalia City Council meeting on September 21, 2015. The original is on file with the City of Visalia City Clerk's office.

Michelle Nicholson

A handwritten signature in blue ink that reads "Michelle Nicholson".

Chief Deputy City Clerk

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CALIFORNIA BUILDING  
& STANDARDS COMMISSION

Faint handwritten notes and stamps in the bottom right corner, including a date "10/28/15" and some illegible markings.

COPY

ORDINANCE 2015-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA  
AUTHORIZING AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR  
SMALL RESIDENTIAL ROOFTOP SOLAR SYSTEMS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA:

**Section 1:** Consistent with its control over municipal affairs and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety, and welfare of its citizenry. The City Council of the City of Visalia hereby makes the following findings:

a. The City of Visalia seeks to implement AB 2188 (Chapter 521, Statutes 2014) a state law that amended California Civil Code section 714 and Government Code section 65850.5 to require cities and counties in California to encourage the timely and cost effective installation of solar energy systems by requiring an expedited, streamlined permitting process for small residential rooftop solar energy systems; and

b. The City Council wishes to advance the use of solar energy by all of its citizens, businesses and industries; and

c. The City Council seeks to meet the climate action goals set by the City and the State; and

d. Solar energy construction can create local jobs and economic opportunity; and

e. The City Council recognizes that rooftop solar energy provides reliable energy and pricing for its residents and businesses; and

f. It is in the interest of the health, welfare and safety of the people of Visalia to provide an expedited permitting process for small residential rooftop solar energy systems to assure the effective deployment of solar technology.

**Section 2:** Chapter 15.80 - Residential Rooftop Solar Energy Systems - shall be added to the Visalia Municipal Code, this chapter contains sections 15.80.010, 15.80.020, 15.80.030, 15.80.040, 15.80.050 and 15.80.060. Copies of these sections are included in Attachment A, which is made a part hereof by reference. As part of complying with new state law requirements the City of Visalia Building Division has prepared a checklist of the requirements with which small rooftop solar energy systems shall comply to be eligible for expedited review. The ordinance authorizes the Building Division to prepare this checklist, utilize the checklist for expedited review of small rooftop solar energy system applications, and periodically review and update the checklist.

**Section 3: Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

**Section 4: Construction.** The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

**Section 5: Effective Date.** This Ordinance shall take effect thirty days after its adoption.

**Section 6: Certification.** The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED: September 21, 2015

STEVE NELSEN, MAYOR

ATTEST:



MICHAEL OLMOS, CITY CLERK

APPROVED BY CITY ATTORNEY



STATE OF CALIFORNIA )  
COUNTY OF TULARE ) ss.  
CITY OF VISALIA )

I, Michael Olmos, City Clerk of the City of Visalia, certify the foregoing is the full and true Ordinance 2015-09 passed and adopted by the Council of the City of Visalia at a regular meeting held on September 21, 2015 and certify a summary of this ordinance has been published in the Visalia Times Delta.

Dated: *October 1, 2015*

MICHAEL OLMOS, CITY CLERK



By Michelle Nicholson, Chief Deputy City Clerk

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## ATTACHMENT A

### CHAPTER 15.80

#### Residential Rooftop Solar Energy Systems

##### Sections

15.80.010	Definitions
15.80.020	Purpose
15.80.030	Applicability
15.80.040	Solar System Energy Requirements
15.80.050	Duties of City in Reviewing Small Residential Rooftop Solar Energy System Applications
15.80.060	Permit Review and Inspection Requirements

##### 15.80.010 Definitions

A. "Solar Energy System" means either of the following:

- 1) Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.
- 2) Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.

B. "Small residential rooftop solar energy system" means all of the following:

- 1) A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
- 2) A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and all state and City, health and safety standards.
- 3) A solar energy system that is installed on a single or duplex family dwelling.
- 4) A solar panel or module array that does not exceed the maximum legal building height as defined by the City.

C. "Electronic submittal" means the utilization of one or more of the following:

- 1) Email;
- 2) The Internet;
- 3) Facsimile.

- D. "Association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- E. "Common interest development" means any of the following:
- 1) A community apartment project.
  - 2) A condominium project.
  - 3) A planned development.
  - 4) A stock cooperative.
- F. "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- G. "Reasonable restrictions" on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.
- H. "Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:
- 1) For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.
  - 2) For Photovoltaic Systems: an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

**15.80.020 Purpose**

The purpose of the Ordinance is to adopt an expedited, streamlined solar permitting process that complies with state law and provides for timely and cost-effective installations of small residential rooftop solar energy systems. The Ordinance encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City to install solar energy systems. The Ordinance allows the City to achieve these goals while protecting the public health and safety.

**15.80.030 Applicability**

This Ordinance applies to the permitting of all small residential rooftop solar energy systems in the City. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Ordinance are not subject to the requirements of this Ordinance unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

#### **15.80.040 Solar Energy System Requirements**

- A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the City of Visalia, including Visalia Fire Department, City building officials, and utility director, if applicable.
- B. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.
- C. Solar energy systems for producing electricity shall meet all applicable Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

#### **15.80.050 Duties of City in Reviewing Small Residential Rooftop Solar Energy System Applications**

- A. All documents required by the City to be completed for the submission of an expedited solar energy system application shall be made available on the publicly accessible City of Visalia website.
- B. Electronic submittal of the required permits application and documents by email, the Internet, or facsimile shall be made available to all small residential rooftop solar energy system permit applicants.

An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature. Safety and performance standards established by the California Electrical Code shall provide an electronic "Notarized" copy of proof of ownership of said property and the contractor utilized by the applicant shall provide proof of current contractor's license and insurance.

- C. The City of Visalia Building Division shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply with to be eligible for expedited review. This standard plan and checklist will be

updated and reviewed periodically by the Building Division and revised if necessary to comply with all applicable requirements.

- D. The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall conform to the most current state codes.
- E. All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

#### **15.80.060 Permit Review and Inspections Requirements**

- A. The City Building Department shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within 30 days of the adoption on this Ordinance. Building Department shall periodically review and update the administrative process. The Building Department shall issue a building permit or other nondiscretionary permit the same day for over-the-counter applications or within 1-3 business days for electronic applications of receipt of a complete application that meets the requirements of the approved administrative process and standard plan. The Building Official may require an applicant to apply for a use permit if the official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the City Building Advisory Committee (BAC).
- B. Review of the application shall be limited to the building official's review of whether the application meets local, state, and federal health and safety requirements.
- C. If a use permit is required, a building official may deny an application for the use permit if the official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the Building Advisory Committee and/or Planning Commission.
- D. Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.
- E. "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City on another similarly situated application in a prior successful

application for a permit. The City shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of state law, including but not limited to subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

- F. The City shall not condition approval of an application on the approval of an association, meaning a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development, as the term "association" is defined in Section 4080 of the Civil Code.
- G. If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to, or given to the applicant for resubmission.
- H. Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review. The City of Visalia Building Division has the authority/responsibility to perform safety inspections regarding ingress and egress on roof clearance's regarding solar panel's at rooftops and at leading edges. The Building Division will also inspect for proper flashing installation requirements as part of this inspection
- I. The inspection shall be done in a timely manner and should include consolidated inspections. An inspection will be scheduled within two [2] business days of a request and provide a two [2] hour inspection window.
- J. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this Ordinance.

**BUILDING STANDARDS COMMISSION**

2525 Natomas Park Drive, Suite 130  
Sacramento, California 95833-2936  
(916) 263-0916 FAX (916) 263-0959



October 29, 2015

Chuck Clark  
Building Official  
City of Visalia  
315 East Acequia Ave.  
Visalia, CA 93291

RE: Ordinance #2010-08

Dear Mr. Clark:

This letter is to advise you of our determination regarding the referenced ordinance with express findings received from your agency on October 22, 2015.

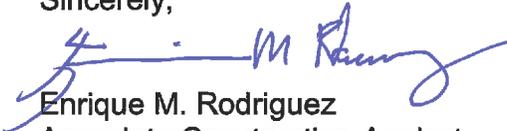
Our review finds the submittal to contain one ordinance modifying provisions of the 2013 California Building Standards Code in Title 24, California Code of Regulations (code), and express findings complying with Health and Safety Code Sections 17958.7 and 18941.5. The code modification is accepted for filing and is enforceable. This letter attests only to the satisfaction of the cited law for filing of local code amendment supported by an express finding with the California Building Standards Commission (CBSC). CBSC is not authorized by law to evaluate the merit of the code modification or the express finding.

Local modifications to the code are specific to a particular edition of the code. They must be readopted and filed with CBSC in order to remain in effect when the next triennial edition of the code is published.

On a related matter, should your city receive and ratify Fire Protection District ordinances making modifications to the code, be advised that Health and Safety Code Section 13869.7(c) requires such ratified ordinances and express findings to be filed with the Department of Housing and Community Development, Division of Codes and Standards, State Housing Law Program, rather than CBSC. Also, ordinances making modifications to the energy efficiency standards of the code may require approval from the California Energy Commission pursuant to Public Resources Code Section 25402.1(h)(2).

If you have any questions or need any further information, you may contact me at (916) 263-0916.

Sincerely,

  
Enrique M. Rodriguez  
Associate Construction Analyst

cc: CBSC Chron  
Local Filings

*City of Visalia*



*Community Development*

315 East Acequia Ave., Visalia, CA 93291

Tel: (559) 713-4440 Fax: (559) 713-4812

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**Certified Mail Return Receipt Requested**

October 16, 2015

To: California Building Standards Commission  
2525 Natomas Park Drive, Suite 130  
Sacramento, California 95833

Subject: Flood Damage Prevention Regulations, Ordinance 2010-08

To Whom It May Concern:

Enclosed is a copy of Ordinance 2010-08 adopted by Visalia City Council on October 18, 2010. This Ordinance has not been amended since Council adopted it in 2010. Please file this Ordinance and findings of fact that support this Ordinance.

If you have any questions please feel free to contact me at (559) 713-4495.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chuck Clark".

Chuck Clark, MBA, CBO

Building Official

City of Visalia

(559) 713-4495

Fax (559) 713-4814

[Chuck.Clark@ci.visalia.ca.us](mailto:Chuck.Clark@ci.visalia.ca.us)

Attachments: Ordinance 2015-09 and Findings of Fact

cc: Michelle Nicholson, Chief Deputy City Clerk

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2015 OCT 22 A 11: 58  
CALIFORNIA BUILDING  
STANDARDS COMMISSION

ORDINANCE NUMBER 2010-08

AN ORDINANCE AMENDING CHAPTER 15.60, SECTIONS 15.60.010 THROUGH 15.60.070, IMPLEMENTING UPDATES TO THE CITY OF VISALIA "FLOOD DAMAGE PREVENTION REGULATIONS" AND RENAMING CHAPTER 15.60 TO "FLOODPLAIN MANAGEMENT REGULATIONS"

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA:

Section 1: Consistent with the authority of the Charter of the City of Visalia and the statutes of the State of California, the City Council of the City of Visalia hereby enacts updates to the Flood Damage Prevention Regulations.

Section 2: Chapter 15.60, Sections 15.60.010 through 15.60.070, of the Visalia Municipal Code is hereby amended as indicated in Exhibit A, attached hereto and incorporated herein.

Section 3: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 4: Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section 5: Effective Date. This Ordinance shall take effect thirty days after its adoption.

Section 6: Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED:

BOB LINK, MAYOR
[Signature]

ATTEST:

STEVEN M. SALOMON, CITY CLERK

APPROVED BY CITY ATTORNEY
[Signature]

STATE OF CALIFORNIA)
COUNTY OF TULARE ) ss.
CITY OF VISALIA )

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Ordinance 2010-08 passed and adopted by the Council of the City of Visalia at a regular meeting held on October 18, 2010 and certify a summary of this ordinance has been published in the Visalia Times Delta.

Dated: October 27, 2010

STEVEN M. SALOMON, CITY CLERK
[Signature]
By Donjia Huffmon CMC, Chief Deputy

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CALIFORNIA BUILDING  
STANDARDS COMMISSION

## Exhibit A

### Chapter 15.60

#### FLOODPLAIN MANAGEMENT REGULATIONS

##### Sections:

- 15.60.010 Statutory authorization, short title, findings of fact, purpose and methods.**
- 15.60.020 Definitions.**
- 15.60.030 General provisions.**
- 15.60.040 Administration.**
- 15.60.050 Provisions for flood hazard reduction.**
- 15.60.060 Variance procedures.**
- 15.60.070 Board of appeals.**

#### **15.60.010 Statutory authorization, short title, findings of fact, purpose and methods.**

A. Statutory Authorization. The Legislature of the state has in Government Code Sections 65302, 65560 and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City does adopt the following floodplain management regulations in compliance with the requirements for floodplain management established by the Federal Emergency Management Agency in Title 44, Chapter 1, Part 60, Subpart A of the Code of Federal Regulations.

B. Short Title. This chapter shall be known and may be cited as the "City of Visalia Floodplain Management Ordinance."

##### C. Findings of Fact.

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

2. These flood losses are caused by uses that are inadequately elevated, floodproofed or protected from flood damage. The cumulative effect of obstruction in special flood hazard areas, which increase flood heights and velocities, may also contribute to the flood loss.

D. **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 provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding events and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
6. Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is located in a special flood hazard area; and
8. Ensure that those who occupy properties located in special flood hazard areas assume responsibility for their actions.

E. **Methods of Reducing Flood Losses.** In order to accomplish its purpose, this chapter includes regulations to:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
4. Control filling, grading, dredging, and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 9816 (part), 1998: prior code § 7192)

#### **15.60.020 Definitions.**

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

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

"Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. The City is predominately an area of shallow flooding with a designated AE zone on the FIRMs. There are select areas that are depressed where the base flood depths exceed three feet. These areas are public spaces and do not contain structures.

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

"Base flood elevation" (BFE) means the elevation shown on the FIRMs for Zone AE that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

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

"Breakaway walls" means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are so designed as to break away, under abnormal water action without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty (20) pounds per square foot. Use of breakaway walls shall be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within a special flood hazard area.

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

“Existing manufactured home park or subdivision” means parcel (or contiguous parcel) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the original effective date of this chapter on July 5, 1984.

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

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

1. The overflow of inland waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Maps (FIRMs)” means the official maps on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zone applicable to the community.

“Flood Insurance Study (FIS)” means the official report provided by the FEMA that includes flood profiles, the FIRMs, and the water surface elevations of the base flood.

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

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

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

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

“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved

property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins 2-08, 3-93, and 7-93.

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

“Fraud and victimization” as related to the variance procedures of Section 15.60.060, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the BFE 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.

“Governing body” is the local governing unit that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

“Hardship” as related to the variance procedures of Section 15.60.060, means the exceptional hardship that would result from a failure to grant the requested variance. The City requires that the variance be exceptional, unusual and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

“Historic structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the 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 the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

“Inactive alluvial fan flooding” means flooding that is similar to traditional riverine flood hazards, but occurs only on alluvial fans. It is characterized by flow paths with a higher degree of certainty in realistic assessments of flood risk or in the reliable mitigation of the hazard. Inactive alluvial fan flooding hazard is characterized by relatively stable flow paths. Areas of inactive alluvial fan flooding, may be subject to sediment deposition and erosion, but to a degree that does not cause flow path instability and uncertainty.

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

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

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

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access, building crawlspace or storage in an area other than a basement area, is not considered a building's lowest floor; provided, it conforms to applicable nonelevation design requirements, including, but not limited to:

- a. The anchoring standards in Section 15.60.050A1;
- b. The construction materials and methods standards in Section 15.60.050A2;
- c. The flood openings standard in Section 15.60.050A3c;
- d. The crawlspace construction standards in Section 15.60.050A3e;

e. The standards for utilities in Section 15.60.050B.

"Manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle, except for travel trailers, park trailers, and similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

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

"Market value" shall be determined by estimating the cost to replace the structure in new condition (land value deducted) and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences. The owner of the structure is responsible to determine the market value and submit a report thereof to the floodplain administrator for review and acceptance.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community's FIRMs are referenced.

"New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after the original effective date of this chapter on July 5, 1984, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale, or installed on foundations on or after the original effective date of this chapter on July 5, 1984.

"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, snare or collect debris carried by the flow of water, or is likely to be carried downstream.

"One-Hundred-Year-Flood" or "100-Year Flood." See "Base flood."

"Public safety and nuisance" as related to the variance procedures of Section 15.60.060, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community, neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal or basin.

"Recreational vehicle" means a vehicle which is:

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

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

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

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

"Sheet Flow Area." See "Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on a FIRM as Zone A, AO, A1 A30, AE, A99, or, AH.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (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 slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a 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. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or subdivision, start of construction means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or subdivisions start of construction is the date on which the placement of the manufactured home on a foundation takes place.

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

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. If multiple or phased improvements are involved, said total costs shall be cumulative for a 5 consecutive year period prior to the start of construction. Substantially improved structures are considered new construction and shall meet all the provisions of this chapter for new construction. 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;
2. Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

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

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

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

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 9816 (part), 1998: prior code § 7193)

#### **15.60.030 General provisions.**

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

B. **Basis for Establishing the Special Flood Hazard Areas.** The special flood hazard areas identified by FEMA in the FIS and accompanying FIRMs dated June 16, 2009 and all subsequent amendments and/or revisions, are 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 by the floodplain administrator. The FIS and accompanying FIRMs are on file at City Hall, 315 E. Acequia Avenue, Visalia, California.

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

D. **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.

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

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

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, any officer or employee thereof, or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

G. Severability. This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any portion thereof, other than the section so declared to be unconstitutional or invalid. (Ord. 9816 (part), 1998: prior code § 7194)

#### **15.60.040 Administration.**

A. Establishment of Development Permit. A development permit shall be obtained before any construction, or other development including manufactured homes, begins within any special flood hazard area established in Section 15.60.030B. The applicant for a development permit shall submit such application on application forms furnished by the City. The applicant shall provide the following minimum information during the course of applying and completing the development permit:

1. During the application process, provide three sets of plans, drawn to scale, showing:
  - a. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
  - b. Proposed locations of water supply, sanitary sewer, and other utilities;
  - c. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
  - d. BFE information as shown on the FIRMs referenced in Section 15.60.030B.

- e. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
  - f. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed as required in Section 15.60.050A3b of this chapter and detailed in FEMA Technical Bulletin 3-93.
  - g. For a structure with a crawlspace foundation, proposed locations and total net area of flood openings as required in Section 15.60.050A3e of this chapter and detailed in FEMA Technical Bulletins 1-08 and 7-93.
2. During the application process, provide a description of the extent to which any watercourse will be altered or relocated as a result of the development permit.
  3. During the permit issuance and inspection process, provide preliminary certification from a registered professional engineer or land surveyor of the proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all residential structures.
  4. Prior to requesting a final occupancy of the structure, provide the following certifications as applicable:
    - a. Certification required by Section 15.60.050A3a (lowest floor elevations);
    - b. Certification required by Section 15.60.050A3b (elevation or floodproofing of nonresidential structures);
    - c. Certification required by Section 15.60.050A3c (flood openings);
- B. Designation of the Floodplain Administrator. The Chief Building Official or authorized designee agent acting in the official's behalf is appointed to administer, implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions.
- C. Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the floodplain administrator shall include, but not be limited to:
1. Permit Review.
    - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
    - b. All other required state and federal permits have been obtained;
    - c. The site is reasonably safe from flooding;
    - d. The proposed development does not adversely affect the carrying capacity of areas where BFEs have been determined but a floodway has not been designated. This adverse affect on carrying capacity shall be determined by the analysis required in Section 15.60.050F1.

2. Review, Use and Development of Other Base Flood Data. When BFE data is not available per Section 15.60.030B, the floodplain administrator shall obtain, review and reasonably utilize any flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 15.60.050. The floodplain administrator shall require that BFEs 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.

3. Notification of Other Agencies.

a. Alteration or relocation of a watercourse:

i. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

ii. Submit evidence of such notification to FEMA; and

iii. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

b. BFE changes due to physical alterations:

i. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

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

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

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

a. Certification required by Section 15.60.050A3a (lowest floor elevations);

b. Certification required by Section 15.60.050A3b (elevation or floodproofing of nonresidential structures);

c. Certification required by Section 15.60.050A3c (flood openings);

d. Certification of elevation required by Section 15.60.050C1 (subdivisions and other residential development);

e. Maintain a record of all variance actions, including justification for their issuance.

5. Map Determinations. Make interpretations where needed as to the exact location of the boundaries of the special flood hazard areas; for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.60.070.

6. Remedial Action. Take action to remedy violations of this chapter as specified in Section 15.60.030C.

7. Non-conversion of Enclosed Areas Below the Lowest Floor. To ensure that the areas below the BFE shall be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the floodplain administrator shall:

a. Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher; and

b. Require the applicant to enter into a "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS" or equivalent with the city. The agreement shall be recorded with the Tulare County Recorder as a deed restriction. The non-conversion agreement shall be in a form acceptable to the floodplain administrator and city attorney; and

c. Have the authority to inspect any area of a structure below the BFE to ensure compliance upon prior notice of at least 72 hours.

(Ord. 9816 (part), 1998: prior code § 7195)

#### **15.60.050 Provisions for flood hazard reduction.**

A. Standards of Construction. In all special flood hazard areas, the following standards are required:

1. Anchoring.

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

b. All manufactured homes shall meet the anchoring standards of Section 15.60.050D1.

2. Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

- a. With materials, which are located below the BFE, that are flood damage resistant per FEMA Technical Bulletin 2-08; and
- b. Using methods and practices that minimize flood damage; and
- c. With mechanical, electrical and plumbing systems and other service systems that are either elevated above the BFE if possible or, if below the BFE, designed to prevent water from entering or accumulating within the system components during conditions of flooding per FEMA 348.

3. Elevation and Floodproofing. (See Section 15.60.020, definitions for "Basement," "Lowest floor," "New construction," "Substantial damage" and "Substantial improvement.")

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

- i. In an AE Zone, elevated to or above the BFE.
- ii. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the BFE; as determined under Section 15.60.040C2.

iii. Certified by a registered professional engineer or land surveyor, and verified by the City building inspector, to be properly elevated prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator.

\* b. Nonresidential construction. All new or substantial improvements of nonresidential structures shall either be elevated to conform with Section 15.60.050A3a or together with attendant utility and sanitary facilities:

\* i. Be floodproofed to one foot above the BFE so that the structure is watertight with walls substantially impermeable to the passage of water and eligible to receive an insurance rate equivalent to a building with its lowest floor elevated to the BFE;

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

\* iii. Be certified by a registered professional engineer or architect, and verified by the City building inspector, that the floodproofing requirements of this Section 15.60.050A3b are satisfied prior to issuance of final occupancy of the structure. Such certification shall be provided to the floodplain administrator.

c. Flood Openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access, building crawlspace or storage, and which are subject to flooding, shall:

- i. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater.
- ii. Be designed to provide a minimum of two openings on different exterior walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater. Buildings with more than one enclosed area shall have two openings on different exterior walls for each enclosed area to allow the automatic entry and exit of floodwater in each enclosed area.
- iii. Be certified by a registered professional engineer or architect, and verified by the City building inspector, that the flood openings requirements of this Section 15.60.050A3c are satisfied prior to issuance of the final inspection of the structure. Such certification shall be provided to the floodplain administrator.
- d. Manufactured homes shall meet the standards in Section 15.60.050D.
- e. Crawlspace Construction. This sub-section applies to buildings with crawlspaces up to 2 feet below grade. Below-grade crawlspace construction that is done in accordance with the requirements listed below will not be considered to be a basement.
  - i. Crawlspace construction shall be done per the guidance provided in FEMA Technical Bulletin 11-01.
  - ii. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawlspace construction is not allowed at sites with flood velocities greater than 5 feet per second and other foundation types should be used;
  - iii. The crawlspace is a fully enclosed area below the BFE and, as such, shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. For guidance on flood openings, see FEMA Technical Bulletin 1-08;
  - iv. Crawlspace construction is not permitted in V zones. Open pile or column foundations that withstand storm surge and wave forces are required in V zones;
  - v. Portions of the building below the BFE shall be constructed with materials that are flood damage resistant per FEMA Technical Bulletin 2-08. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE; and

vi. Any mechanical, electrical and plumbing systems located within the crawlspace shall be elevated above the BFE if possible or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions per FEMA 348.

vii. Requirements for all below-grade crawlspace construction, in addition to the above requirements, to include the following:

(a) The interior grade of a crawlspace below the BFE shall not be more than 2 feet below the lowest adjacent exterior grade (LAG), shown as D in figure 3 of Technical Bulletin 11-01;

(b) The height of the below-grade crawlspace, measured from the interior grade of the crawl space to the top of the crawlspace foundation wall shall not exceed 4 feet (shown as L in figure 3 of Technical Bulletin 11-01) at any point; and

(c) There shall be an adequate drainage system that removes floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event, not to exceed 72 hours.

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.

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

C. Standards for Subdivisions and Other Residential Development.

1. All new subdivisions proposals and other proposed residential development, including proposals for manufactured home parks and subdivisions, greater than 10 lots or 3 acres, whichever is the lesser, shall:

a. Identify the location of the SFHA and label the BFE lines on the record map.

b. Identify the elevations of lowest floors of all proposed structures and pads on the record map and construction plans.

c. Place fill to raise the pads for the structures to or above the BFE. The following as-built information shall be certified by a registered civil engineer or licensed land surveyor and included as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to FEMA:

i. Lowest lot elevation or pad elevation.

ii. Lowest adjacent grade to structure. (for cases with existing structures)The application for the LOMR-F shall be submitted to the floodplain administrator for review prior to submission to FEMA. The floodplain administrator shall complete the community acknowledgement form (FEMA Form 81-87B) for inclusion with the application.

2. All subdivision proposals and other proposed residential development shall be consistent with the need to minimize flood damage.

3. All subdivision proposals and other proposed residential development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

4. All subdivision proposals and other proposed residential development shall provide adequate drainage to reduce exposure to flood hazards and shall comply with the provisions of Section 15.60.050F1.

D. Standards for Manufactured Homes.

1. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

a. Within Zone AE on the community's FIRMs, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the BFE and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b. Be certified by a registered professional engineer or land surveyor, and verified by the City or State building inspector, that the lowest floor (including basement) is properly elevated prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator.

2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zone AE on the community's FIRMs that are not subject to the provisions of Section 15.60.050D1 shall:

a. Be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; and

b. Be elevated so that either:

i. The lowest floor of the manufactured home is at or above the BFE; or

ii. The chassis of the manufactured home 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. Be certified by a registered professional engineer or land surveyor, and verified by the City or State building inspector, that the lowest floor (including basement) is properly elevated

prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator.

E. Standards for Recreational Vehicles.

1. All recreational vehicles placed on sites within Zone AE on the community's FIRMs will either:

a. Be on the site for fewer than one hundred eighty (180) consecutive days, and 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

b. Meet the permit requirements of Section 15.60.040 and the elevation and anchoring requirements for manufactured homes in Section 15.60.050D2.

F. Regulatory Floodways. FEMA has stated in the FIS that the City is characterized as an urbanized, inactive alluvial fan system, which consists of highly trained creeks and irrigation channels. This system of creeks and channels does not have the capacity to contain the base flood and therefore the establishment of regulatory floodways is not possible. The resulting flooding from the base flood consists of areas of shallow flooding with overland flows characterized by relatively stable flow paths through the community with flow velocities ranging from 0.5 to 2.0 feet per second. This velocity range of the flood flows is considered low and not extremely hazardous; therefore, the following provisions apply:

1. New construction, substantial development, or other development (including fill) shall be permitted within Zone AE when it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City, or alternatively, it is demonstrated: (1) that the proposed development does not substantially increase the water surface elevation of the base flood within the vicinity of the proposed development, and (2) the proposed development is designed to allow the flow of the base flood to substantially pass through. This analysis shall be done under the direction of the floodplain administrator and upon satisfactory completion shall be prepared into a report to be accepted by the floodplain administrator.

2. If Section 15.60.050F1 is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 15.60.050. (Ord. 9816 (part), 1998: prior code § 7196)

**15.60.060 Variance procedures.**

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.

A. Conditions for Variances. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, providing the procedures of Sections 15.60.040, 15.60.050 and 15.60.070B1-11 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures (as defined in Section 15.60.020) 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 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 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 believes will both provide relief and preserve the integrity of the local ordinance.

E. Variances shall only be issued upon:

1. Receipt of a written request for variance from the owner of record, stating the conditions that constitute an extreme hardship;

2. A showing of good and sufficient cause such as renovation, rehabilitation or reconstruction. Variances issued for economic considerations, aesthetic, or because variances have been used in the past, are not good and sufficient causes;

3. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

4. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization to the public, or conflict with existing local laws or ordinances.

F. 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 BFE will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and

2. Such construction below the BFE increases risks to life and property. (It is recommended that a copy of the notice shall be recorded by the floodplain administrator in the Office of the Tulare County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land).

G. 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 Section 15.60.060A-E 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.

H. Upon consideration of the factors of this section and the purpose of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.

I. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the FEMA upon request. (Ord. 9816 (part), 1998: prior code § 7196.1)

#### **15.60.070 Board of appeals.**

In order to determine if an error in any requirements, decision or determination by the floodplain administrator has been made and to provide for reasonable interpretations of this chapter, there shall be and is created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. Request for appeal shall be made in writing to the floodplain administrator on forms available at City Hall, 315 E. Acequia Avenue, Visalia, California. The floodplain administrator shall be an ex-officio member of and shall act as secretary to the board. The board of appeals shall be appointed by the city council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business

and shall render all decisions and findings in writing to the appellant with a duplicate copy to the floodplain administrator.

A. Those aggrieved by the decision of the appeal board or any taxpayer, may appeal such decision to the civil court as provided in the state law.

B. In passing upon such application, the appeal board shall consider all technical evaluations, all relevant factors, standards, etc., specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations, for the proposed uses that are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges. (Ord. 9816 (part), 1998: prior code § 7196.2)

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