

ORDINANCE NO. 2023-003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING CHAPTER 15.28 OF THE SAN PABLO MUNICIPAL CODE IN ITS ENTIRETY BY REPEALING AND REPLACING THE CURRENT FLOODPLAIN MANAGEMENT AND FLOOD DAMAGE PREVENTION ORDINANCE WITH A NEW CHAPTER 15.28 USING THE CALIFORNIA MODEL CODE FOR FLOODPLAIN MANAGEMENT FOR COORDINATION WITH THE CALIFORNIA BUILDING STANDARDS CODE (APPENDIX G, FLOOD RESISTANT CONSTRUCTION), TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE; AND DETERMINING THAT ADOPTION OF THE AMENDMENT IS EXEMPT FROM ENVIRONMENTAL REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the construction and maintenance of residential, commercial, and other buildings in California is regulated by Title 24 of the California Code of Regulations, also known as the California Building Standards Code (“CBSC”), and complemented by specific requirements in the San Pablo Municipal Code intended to provide minimum requirements to safeguard the life, health and property of the San Pablo residents and stakeholders, the most version was adopted by the City Council of the City of San Pablo on January 17, 2023 by Ordinance 2023-001, amending Chapter 15.04, Uniform Construction Codes, of Title 15 of the San Pablo Municipal Code; and

WHEREAS, the Legislature of the State of California has, in Government Code Sections 65302, 65560, and 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of San Pablo and such areas may be 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; and

WHEREAS, the City of San Pablo was accepted for participation in the National Flood Insurance Program on August 01, 1977 and is consequently required to meet Sections 59 and 60 of Title 44 Code of Federal Regulations, to maintain its participation; and

WHEREAS, pursuant to the California Health and Safety Code, Division 13, Part 1.5 and Part 2.5, the City of San Pablo is required to administer and enforce the *California Building Standards Code*, which contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the City Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *California Building Standards Code*; and

WHEREAS, a duly noticed public hearing was held by City Council on July 17, 2023 to consider these amendments to Chapter 15.28 of the San Pablo Municipal Code.

WHEREAS, the City Council has determined that the adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act in that this action has no potential for causing a significant effect on the environment and because the action is being taken by a regulatory agency where the process involves procedures for the protection of the environment and that does not have the potential to cause significant effects on the environment, including for example, procedures to ensure all government agency permits required by federal, state or local laws or regulations have been obtained for floodplain development.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of San Pablo that the following floodplain management regulations are hereby adopted.

SECTION 1. RECITALS.

The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. INTENT AND PURPOSE OF THE ORDINANCE AMENDMENT.

These regulations specifically repeal and replace the following ordinance and regulation: Chapter 15.28 of the San Pablo Municipal Code, Floodplain Management and Flood Damage Prevention Ordinance to be repealed and updated in its entirety with the State of California Model Code requirements set forth herein. These amendments augment and are consistent with the requirements of Appendix G, Flood Resistant Construction, of the California Building Codes, the most recent version of which was adopted by the City of San Pablo on January 17, 2023 by Ordinance 2023-001, amending Chapter 15.04, Uniform Construction Codes, of Title 15 of the San Pablo Municipal Code.

CHAPTER 15.28

FLOODPLAIN MANAGEMENT AND FLOOD DAMAGE PREVENTION

15.28.010 SCOPE AND ADMINISTRATION

A. Title. These regulations, in combination with the flood provisions of California Code of Regulations Title 24, the *California Building Standards Code* (hereinafter “building codes,” consisting of the Part 2 (building) and Part 2 Appendix G (hereinafter “Appendix G”), Part 2.5 (residential), and Part 10 (existing building), shall be known as the *Floodplain Management Regulations* of the City of San Pablo (hereinafter “these regulations”).

B. Statutory authority. Legislature of the State of California has, in Government Code Sections 65302, 65560, and 65800, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

C. Scope. These regulations, in combination with the flood provisions of the building codes shall apply to all proposed development in flood hazard areas established in Section 15.28.020.B. of these regulations.

D. Purposes and objectives. The purposes and objectives of these regulations and the flood load and flood resistant construction requirements of the building codes are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- (1) Prevent unnecessary disruption of commerce, access and public service during times of flooding.
- (2) Manage the alteration of natural floodplains, stream channels and shorelines;
- (3) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- (4) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- (5) Contribute to improved construction techniques in the floodplain.
- (6) Minimize damage to public and private facilities and utilities.
- (7) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- (8) Minimize the need for rescue and relief efforts associated with flooding.
- (9) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- (10) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- (11) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

E. Coordination with Building Codes. Pursuant to the requirement established in State statute that the City of San Pablo administer and enforce the State building codes, the City Council of the City of San Pablo does hereby acknowledge that the building codes contain certain provisions that apply to the design and construction of buildings and

structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the building codes.

F. Adoption of CCR Title 24 Part 2 Appendix G. CCR Title 24 Part 2 Appendix G *Flood-Resistant Construction* was adopted and made a part of the *California Building Standards Code* and shall apply in flood hazard areas

G. Warning. The degree of flood protection required by these regulations and the building codes is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations and the building codes does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guaranty of vested use, existing use, or future use is implied or expressed by compliance with these regulations.

H. Disclaimer of liability. These regulations 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 damage that results from reliance on these regulations or any administrative decision lawfully made hereunder. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the community in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by a legal representative of the community until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

I. Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, State or federal law.

J. Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

15.28.020. APPLICABILITY

A. General applicability. These regulations, in conjunction with the building codes, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the building codes; and other buildings and development activities.

B. Establishment of Flood Hazard Areas. The Flood Insurance Study for Contra Costa County, California and Incorporated Areas dated August 1, 1977 and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are hereby adopted by reference as a part of these regulations and serve as the basis for establishing flood hazard areas. Where the building code establishes flood hazard areas, such areas are established by this section. Additional maps and studies, when specifically adopted, supplement the FIS and FIRMs to establish additional flood hazard areas. Maps and studies that establish flood hazard areas are on file at the office of the Public Works Director/City Engineer located at 1000 Gateway Avenue, San Pablo, California.

C. Interpretation. In the interpretation and application of these regulations, all provisions shall be:

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

15.28.030. DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

A. Designation. The Building Official is designated the Floodplain Administrator of the City of San Pablo. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees. Where Appendix G refers to the Building Official, each such reference shall refer to the Floodplain Administrator. The Floodplain Administrator is authorized and directed to administer and enforce the provisions of Appendix G.

B. General authority. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the

building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Appendix G.

C. Coordination. Should the Floodplain Administrator duties be delegated to an individual other than the Building Official, the designated Floodplain Administrator shall coordinate with and provide comments to the Building Official to administer and enforce the flood provisions of the building code and to ensure compliance with the applicable provisions of these regulations. The Floodplain Administrator designee and the Building Official have the authority to establish written procedures for reviewing applications and conducting inspections for buildings and for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103-6 of these regulations.

D. Duties. The duties of the Floodplain Administrator shall include but are not limited to:

- (1) Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 15.28.020 of these regulations.
- (2) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (3) Interpret flood hazard area boundaries, provide available flood elevation and flood hazard information.
- (4) Determine whether additional flood hazard data shall be obtained or developed.
- (5) Review all applications and plans for development in flood hazard areas for compliance with these regulations.
- (6) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal, State or Local laws or regulations including but not limited to the California Environmental Quality Act ("CEQA"), Federal Endangered Species Act (ESA) and section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 to ensure that the activities and projects do not have the potential to cause significant effects on the environment.
- (7) Complete the appropriate section of the Department of Housing and Community Development Floodplain Ordinance Compliance Certification for Manufactured Home/Mobile home Installations when submitted by applicants.
- (8) If the Floodplain Administrator is delegated to an individual other than the Building Official, the Floodplain Administrator shall review, in conjunction with the Building Official, required certifications and documentation specified by these

regulations and the building code to determine that such certifications and documentations are complete.

- (9) If the Floodplain Administrator is delegated to an individual other than the Building Official, the Floodplain Administrator shall establish, in coordination with the Building Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 15.28.030.F of these regulations.
- (10) If the Floodplain Administrator is delegated to an individual other than the Building Official, the Floodplain Administrator shall coordinate with the Building Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (11) If the Floodplain Administrator is delegated to an individual other than the Building Official, the Floodplain Administrator shall review requests submitted to the Building Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the building code, to determine whether such requests require consideration as a variance pursuant to Appendix G.
- (12) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (13) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NFIP State Coordinating Agency, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- (14) Inspect development within the scope of Appendix G and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (15) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Appendix G.
- (16) Cite violations.
- (17) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of San Pablo have been modified.

E. Other permits required. The applicant shall obtain all other required state and federal permits prior to initiating work authorized by these regulations and shall provide documentation of such permits to the Floodplain Administrator. Such permits include but are not limited to:

- (1) California Coastal Commission or certified Local Coastal Program, if applicable, for activities subject to the Coastal Development Permit requirements and policies of the California Coastal Act (Public Resources Code, Division 20).
- (2) California State Water Resources Control Board for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.

F. Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures that occurs within a 10-year cumulative period, the Floodplain Administrator, in coordination with the Building Official, if the Floodplain Administrator is designated to an individual other than the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (2) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
- (4) Notify the applicant when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage.

G. Department records. In addition to the requirements of the building code and Appendix G, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the building codes, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the building codes and these regulations; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification

for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the building codes.

15.28.040. SITE PLANS AND DOCUMENTATION

A. Additional site plan information. In addition to the site plan requirements of the building code and Appendix G shall include, as applicable to the proposed development:

- (1) Location of the proposed activity and proposed structures; locations of water supply, sanitary sewer, and other utilities; and locations of existing buildings and structures.
- (2) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (3) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (4) Extent of any proposed alteration of sand dunes, provided such alteration is approved by the California Coastal Commission or certified Local Coastal Program, if applicable.
- (5) Existing and proposed alignment of any proposed alteration of a watercourse.

B. Additional engineering data. When additional hydrologic, hydraulic or other engineering data, studies, and additional data and analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a qualified registered professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant. Provided FEMA issues a Conditional Letter of Map Revision, construction of proposed flood control projects and land preparation for development are permitted, including clearing, excavation, grading, and filling. Permits for construction of buildings shall not be issued until the applicant satisfies the FEMA requirements for issuance of a Letter of Map Revision.

15.28.050 VARIANCES

A. Variances, in addition. In addition to the variance provisions of Zoning Code Section 17.20.050 and Appendix G:

- (1) The considerations and conditions for variances set forth in Appendix G 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 issued for a parcel of property

with physical characteristics so unusual that complying with the requirements of these regulations 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. The issuance of a variance is for floodplain management purposes only. Federal flood insurance premium rates are determined by the National Flood Insurance Program according to actuarial risk and will not be modified by the granting of a variance.

- (2) It is the duty of the City Council to promote public health, safety and welfare and minimize losses from flooding. This duty is so compelling and the implications of property damage and the cost of insuring a structure built below flood level are so serious that variances from the elevation or other requirements in the building codes should be quite rare. The long-term goal of preventing and reducing flood loss and damage, and minimizing recovery costs, inconvenience, danger, and suffering, can only be met when variances are strictly limited. Therefore, the variance requirements in these regulations are detailed and contain multiple provisions that must be met before a variance can be properly issued. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

15.28.060 VIOLATIONS

A. Violations, general. In addition to the violation provisions of the building code and Appendix G, any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation.

B. Buildings and structures. A building or structure without the documentation of the elevation of the lowest floor, other required design certifications, or other evidence of compliance required by these regulations or the building code, is presumed to be a violation until such time as required documentation is submitted. Violation of the requirements shall constitute a misdemeanor.

C. Authority. The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the building codes, but is regulated by these regulations and that is determined to be a violation.

D. Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

15.28.070. DEFINITIONS

A. General. The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Building Code and

Appendix G and terms are defined where used in the Residential Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

B. Definitions

ACCESSORY STRUCTURE. A structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

AGRICULTURAL STRUCTURE. A walled and roofed structure used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, including aquatic organisms. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

ENCROACHMENT. The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

EXCEPTIONAL HARDSHIP. For the purpose of variances from these regulations or the building code, the exceptional difficulty that would result from a failure to grant a requested variance. Mere economic or financial hardship is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors do not, as a rule, qualify as exceptional hardships. All of these circumstances can be resolved through other means without granting variances, even when the alternatives are more expensive or require the property owner to build elsewhere or put the parcel to a different use than originally intended.

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) was completed before October 7, 1987.

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 CONTROL PROJECT. A dam or barrier design and constructed to keep water away from or out of a specified area, including but not limited to levees, floodwalls, and channelization.

FRAUD OR VICTIMIZATION. For the purpose of variances from these regulations or the building code, the intentional use of deceit to deprive another of rights or property, making a victim of the deprived person or the public. As it pertains to buildings granted variances to be constructed below the elevation required by the building code, future owners or tenants of such buildings and the community as a whole may bear the burden of increased risk of damage from floods, increased cost of flood insurance, and increased recovery costs, inconvenience, danger, and suffering.

LETTER OF MAP CHANGE (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (1) Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (2) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (3) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LIGHT-DUTY TRUCK. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000

pounds or less and which has a basic vehicle frontal area of forty-five (45) square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

MARKET VALUE. The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods: (1) Actual Cash Value (replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) established by a qualified independent appraiser.

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) was completed on or after October 7, 1987.

NUISANCE. That 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.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SAND DUNES. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

WATERCOURSE. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

15.28.080 FLOOD RESISTANT DEVELOPMENT: SUBDIVISIONS

A. – Subdivisions, in addition. In addition to the subdivision provisions of Title 16 and in Appendix G, the following requirements apply:

- (1) In Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from proposed structures.

- (2) When fill will be placed to support buildings, the fill shall be placed in accordance with the building code and approval of the subdivision shall require submission of as-built elevations for each filled pad certified by a licensed land surveyor or registered civil engineer.

15.28.090 FLOOD RESISTANT DEVELOPMENT: SITE IMPROVEMENT

A. Site improvement, in addition. In addition to the site improvement provisions in other provisions of Title 15, 16, and 17, and of Appendix G, the requirements of this section shall apply.

B Limitations on placement of fill. Where the placement of fill is permitted by the building code, Appendix G, or these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures, fill shall comply with the requirements of the building code. The placement of fill intended to change base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs shall be subject to the requirements of Section 104-2 of these regulations.

15.28.100 FLOOD RESISTANT DEVELOPMENT; MANUFACTURED HOMES

A. Installation, in addition. In addition to the provisions for manufactured homes in Title 17, other provisions of Title 15, and Appendix G:

- (1) All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to the Business and Professions Code and shall comply with the requirements of the Department of Housing and Community Development (HCD) and the requirements of these regulations.
- (2) In addition to permits pursuant to Appendix G, permits from the HCD are required where the HCD is the enforcement agency for installation of manufactured homes.
- (3) Upon completion of installation and prior to the final inspection by the Floodplain Administrator, the installer shall submit certification of the elevation of the manufactured home, prepared by a licensed land surveyor or registered civil engineer, to the Floodplain Administrator.

B. Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as a result of flooding has occurred, shall be elevated such that either the:

- (1) Lowest floor, or bottom of the lowest horizontal structural member, as applicable to the flood hazard area, is at or above the base flood elevation.
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements

of at least equivalent strength that are not less than 36 inches in height above grade.

15.28.110 ACCESSORY STRUCTURES

A. Detached garages and accessory storage structures. The provision in Appendix G for garages and accessory structures shall be replaced with this section. Detached garages and accessory storage structures used only for parking or storage are permitted below the base flood elevation provided the garages and accessory storage structures:

- (1) Are one story and not larger than 600 square feet in area when located in special flood hazard areas other than coastal high hazard areas.
- (2) Are not larger than 120 sq. ft. in area when located in coastal high hazard areas (Zone V/VE).
- (3) Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.
- (4) Have flood openings in accordance with the building code.
- (5) Have flood damage-resistant materials used below the base flood elevation.
- (6) Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation.

15.28.120 FLOOD CONTROL PROJECTS

A. Flood control projects; general. In addition to applicable Federal, State and other local permits, a permit for floodplain development is required for construction of flood control projects. The purpose for the permit is to examine the impact on flood hazard areas, floodways, and base flood elevations shown on the FIRM. Unless otherwise authorized by separate regulations, issuance of this permit does not address the sufficiency of the structural elements of the proposed flood control project. Permits for floodplain development and building permits in areas affected by proposed flood control projects shall not be issued based on Conditional Letters of Map Revision issued by FEMA.

B. Flood control projects; applications. Applications for permits for flood control projects shall include documentation including but not limited to:

- (1) Site plan or document showing the existing topography and the boundaries of the flood hazard areas, floodway boundaries, and base flood elevations shown on the FIRM.
- (2) Site plan or document showing the proposed topography and the proposed changes to the boundaries of the flood hazard areas, floodway boundaries, and

base flood elevations.

- (3) The documentation submitted to FEMA for a Conditional Letter of Map Revision (CLOMR) and, if issued, the Conditional Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant. A CLOMR is required when a proposed flood control project alters a floodway and increases base flood elevations more than greater than 0.00 feet, or alters a watercourse a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated and increases base flood elevations more than 1.0 foot.

SECTION 3. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in the City of San Pablo. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 4. INCLUSION INTO THE CODE OF ORDINANCES. It is the intent of the City Council that the provisions of this ordinance shall become and be made a part of the San Pablo's Code of Ordinances, and that the sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 5. ENVIRONMENTAL REVIEW.

The purpose of repealing and replacing the current Chapter 15.28, Floodplain Management and Flood Damage Prevention Ordinance is to update it with the requirements of State of California Model Code and Appendix G of the California Building Codes. The new Ordinance provides updated minimum standards to safeguard life, limb, health, property, and public welfare for all properties located in the flood zones. Adoption of these codes and regulations will not have the effect of deleting or substantially changing any regulatory standards, because it can be determined with certainty that the adoption of this Ordinance has no potential for causing a significant effect on the environment. The codes and amendments in this Ordinance are therefore exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3) (i.e., the "common sense" exemption). In addition, adoption of these codes is exempt from review under CEQA Guidelines section 15308 because the project is an action being taken by a regulatory agency where the process involves procedures for the protection of the environment and that does not have the potential to cause significant effects on the environment. Furthermore, the floodplain administrator must ensure that necessary permits have been received from those governmental agencies from which approval is required by federal or state laws for all floodplain management development.

SECTION 6. SEVERABILITY.

Where any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

SECTION 7. EFFECTIVE DATE AND PUBLICATION.

This Ordinance shall become effective thirty (30) days following its adoption. The City Clerk’s Office shall publish and post the Ordinance in accordance with California Government Code section 36933.

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First introduced at a regular meeting of the City Council of the City of San Pablo on July 17, 2023, by the following vote:

AYES:	COUNCILMEMBERS:	Xavier, Pabon-Alvarado, Ponce and Pineda
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Cruz
ABSTAIN:	COUNCILMEMBERS:	None

Finally passed and adopted at a regular meeting of the City Council held on August 7, 2023, by the following vote:

AYES:	COUNCILMEMBERS:	Xavier, Cruz, Ponce and Pineda
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Pabon-Alvarado
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

/s/ Dorothy Gantt
Dorothy Gantt, City Clerk

/s/ Abel Pineda
Abel Pineda, Mayor