

CHAPTER 19.16
FP (FLOOD PLAIN OVERLAY) ZONE

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19.16.010 PURPOSE

The purpose of the Flood Plain Overlay zone is to protect public health, safety, and general welfare, and to minimize hazards due to flooding in specific areas as identified by the latest adopted Flood Insurance Rate Maps, in addition to the following: (MC 1393 12/2/13)

1. To minimize expenditure of public money for costly flood control projects;
2. To minimize the need for the rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
3. To minimize prolonged business interruption;
4. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
5. To help maintain a stable tax base by providing for the second use and development of area of special flood hazard so as to minimize future flood blight areas;
6. To insure that potential buyers are notified that property is in an area of special flood hazard; and
7. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

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

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion of flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage; and
5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

19.16.020 DEFINITIONS

In addition to those terms defined in Section 19.02.050, the following definitions shall apply:

Appeal. A request for a review of the City Engineer's interpretation of any provision of this Chapter.

Area of shallow flooding. A designated AO, AH, or CP Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

Area of special flood-related erosion hazard. The area of subject to severe flood-related erosion losses. The area is design is designated as Zone E on the Flood Insurance Rate Map (FIRM).

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

Area of special mud slide (i.e., mud flow hazard). The area subject to severe mud slides (i.e. mud flows). The area is designated as Zone M on the Flood Insurance Rate Map (FIRM).

Base Flood. The flood having a 1% chance of being equaled or exceeded in any given year (also called the "100-year flood").

Basement. Any area of the building having its floor subgrade - i.e., below ground level – on all sides. (MC 1062 11/15/99)

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain. (MC 1062 11/15/99)

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of flood waters, the unusual and rapid accumulation or run-off of surface water from any source, and/or the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

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

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

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

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source (see "Flooding").

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

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

Flood proofing. Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. The channel or 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 1 foot. Also referred to as "Regulatory floodway."

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

Hardship. The exceptional hardship that would result from a failure to grant a requested variance. The variance must 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. (MC 1062 11/15/99)

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

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for sale or rent.

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

New construction. For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of this Development Code.

One hundred year flood. A flood which has a 1% annual probability of being equaled or exceeded. It is identical to the "base flood," which will be the term used throughout this Chapter.

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

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

Special flood hazard area (SFHA). An area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, CO, C1-V30, VE, or V.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (MC 1062 11/15/99)

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (MC 1062 11/15/99)

Substantial improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- A. Before the improvement or repair is started; or
- B. If the structure has been damaged, and is being restored, before the damage occurred.

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

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

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

Water surface elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (MC 1062 11/15/99)

Watercourse. A lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (MC 1062 11/15/99)

19.16.030 GENERAL PROVISIONS

- 1. This chapter shall apply to all areas of special flood hazards, areas of flood-related erosion hazards and areas of mud slide (i.e. mud flow) hazards within the jurisdiction of the City.
- 2. The areas of special flood hazard, areas of flood-related erosion hazards and areas of mud slide (i.e. mud flow) hazards identified by the Federal Insurance Administration of the Federal Emergency Management Agency in the Flood Insurance Study dated March, 1996, and accompanying Flood Insurance Rate Maps, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Chapter. This Flood Insurance Study 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 Council by the City Engineer.

3. 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. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation.
4. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and any other code, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more restrictive restrictions shall prevail.
5. In the interpretation and application of this chapter, all provisions shall be:
 - A. Considered as minimum requirements;
 - B. Liberally construed in favor of the governing body; and
 - C. Deemed neither to limit nor repeal any other powers granted under state statutes.
6. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards, areas of flood-related erosion hazards and areas of mud slide (i.e. mud flow) hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

19.16.040 ADMINISTRATION

1. A Flood Control Development Permit shall be obtained before construction or development begins within any area of special flood hazards, areas of flood-related erosion hazards or areas of mud slide (i.e., mud flow) established in Section 19.16.030(2). An application for a Flood Control Development Permit shall be made on forms furnished by the City Engineer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of same. Specifically, the following information is required:
 - A. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; in zone AP or VO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;
 - B. Proposed elevation in relation to mean sea level to which any structure will be flood-proofed;
 - C. All appropriate certifications listed in Section 19.16.050(3) of this Chapter; and

- D.** Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- 2.** The City Engineer is hereby appointed to administer and implement this chapter by granting or denying Flood Control Development Permits in compliance with its provisions.
- 3.** The duties and responsibilities of the City Engineer, as related to this Chapter, shall include, but not be limited to:

A. PERMIT REVIEW

- 1.** Review all Flood Control Development Permits to determine that the permit requirements of this Chapter have been satisfied;
 - 2.** All other required state and federal permits have been obtained;
 - 3.** The site is reasonably safe from flooding;
 - 4.** The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but the floodway has not been designated. For the purposes of this Chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point.
- B.** When base flood elevation data has been provided in compliance with Section 19.16.030(2), the City Engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Section 19.16.050. Any such information shall be submitted to the Council for adoption.
- C.** Whenever a watercourse is to be altered or relocated, the City Engineer shall:
- 1.** Notify adjacent communities and the California Department of Water Resources prior to the alteration or relocation of a watercourse, and submit evidence of the notification to the Federal Insurance Administration;
 - 2.** Require that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained.
- D.** Secure and maintain for public inspection and availability the certifications, appeals and variances identified in Section 19.16.050(3) and Section 19.16.090.
- E.** Make interpretation where needed, as to the exact location of the boundaries of the areas of special flood hazards, areas of flood-related erosion hazards or areas of mud slide (i.e., mud flow) (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 19.16.090.

- F. Take action to remedy violations of this Chapter as specified in Section 19.72.

19.16.050 PROVISIONS FOR FLOOD HAZARD REDUCTION

In all areas of special flood hazards the following standards shall apply:

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 19.16.050(6).

2. CONSTRUCTION MATERIALS AND METHODS

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. Require within Zones AH, AO, or VO, adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

3. ELEVATION AND FLOOD-PROOFING

- A. New construction and substantial improvement of structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Nonresidential structures shall meet the standards in Section 19.16.050(3)(C). Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer to be properly elevated. The certification or verification shall be provided to the City Engineer.
- B. New construction and substantial improvement of any structure in Zone AH, AO, or VO shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM, or at least 2 feet if no depth number is specified. Nonresidential structures shall meet the standards in Section 19.16.050(3)(C). Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer, or verified by the building inspector to be properly elevated. The certification or verification shall be provided to the City Engineer.

- C. Nonresidential construction shall either be elevated in conformance with Section 19.16.050(3)(A)(B) or (D) or together with attendant utility and sanitary facilities:
 - 1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - 3. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. The certifications shall be provided to the City Engineer.

- D. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. Either a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters; or
 - 2. Be certified to comply with a local flood-proofing standards approved by the Federal Insurance Administration.

- E. Manufactured homes shall also meet the standards in Section 19.16.050(6).

4. STANDARDS FOR UTILITIES

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

5. STANDARDS FOR SUBDIVISIONS

Applications for Tentative Tract and Parcel Maps shall contain the requirements identified in Section 19.48 and 19.50 (content and form) in addition to the following:

- A. Identify the flood hazards area and the elevation of the base flood.

- B.** All Final Maps shall provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be verified by a registered professional engineer or surveyor and provided to the City Engineer.
- C.** All proposals shall be consistent with the need to minimize flood damage.
- D.** All proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- E.** All proposals shall provide adequate drainage to reduce exposure to flood hazards.

6. STANDARDS FOR MANUFACTURED HOMES

All new and replacement manufactured homes and additions to manufactured homes shall be constructed in the following manner:

- A.** Be elevated so that the lowest floor is at or above the base flood elevation; and
- B.** All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements include:
 - 1.** Over-the-top ties be provided at each of the four corners of the manufactured homes, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
 - 2.** Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 - 3.** All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - 4.** Any additions to the manufactured homes be similarly anchored.

19.16.060 FLOODWAYS

- 1.** Located within areas of special flood hazard established in Section 19.16.030(2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

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

- 2.** If Section 19.16.060(1) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Section 19.16.050.

19.16.070 MUD SLIDE (I.E., MUD FLOW) - PRONE AREAS

1. The City Engineer shall review permits for proposed construction or other development to determine if it is proposed within a mud slide area.
2. Permits shall be reviewed to determine that the proposed development is reasonably safe from mud slide hazards. Factors to be considered in making this determination shall include but are not limited to:
 - A. The type and quality of soils;
 - B. Evidence of ground water or surface water problems;
 - C. The depth and quality of any fill;
 - D. The overall slope of the site; and
 - E. The weight that any proposed development will impose on the slope.
3. Within areas which have mud slide hazards, the following requirements shall apply:
 - A. A site investigation and further review shall be made by persons qualified in geology and soils engineering;
 - B. The proposed grading, excavation, new construction and substantial improvements shall not aggravate the existing hazard by creating either on-site or off-site disturbances; and
 - C. The proposed grading, excavations, new construction and substantial improvements shall not aggravate the existing hazard by creating either on-site or off-site disturbances; and
 - D. Drainage, planting, watering, and maintenance shall not endanger slope stability.
4. Within Zone M on the Flood Insurance Rate Map, excavation, grading and drainage shall be constructed in compliance with Chapter 70 of the Uniform Building Code as modified by Municipal Code Sections 15.04.120 through 15.04.220. The following information shall be provided:
 - A. The location of foundation and utility systems of new construction and substantial improvements;
 - B. The location, drainage, and maintenance of all excavations, cuts and fills, and planted slopes;
 - C. Protective measures including but not limited to retaining walls, fills, subdrains, diverter terraces, benchings, etc.; and
 - D. Engineering drawings and specifications to be submitted for all corrective measures, accompanied by supporting soils engineering and geology reports.

19.16.080 FLOOD-RELATED EROSION-PRONE AREAS

1. The City Engineer shall require permits for proposed construction and other development within all flood-related erosion-prone areas identified within the City.
2. The permits shall be reviewed to determine whether the proposed site alterations and improvements will be reasonable safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
3. If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, the improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

19.16.090 APPEALS AND VARIANCES

1. The Commission shall hear and decide appeals and requests for flood control variances from the requirements of this Chapter.
 - A. The Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Engineer in the enforcement or administration of this Chapter.
 - B. In passing upon such applications, the Commission shall consider all technical evaluations, all relevant factors, standards 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 of life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed facility to the City;
 5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 6. The compatibility of the proposed use with existing and anticipated development;
 7. The relationship of the proposed use to the General Plan and flood plain management program for that area;
 8. The safety of access to the property in time of flood for ordinary and emergency vehicles;
 9. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

- 10.** 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.
- C.** Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places, without regard to the procedures identified in the remainder of this Section.
- D.** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 19.16.050 through 19.16.080 have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.
- E.** Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- F.** Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- G.** Flood control variances shall only be issued if:

 - 1.** There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property, which do not apply generally to other property in the same flood zone;
 - 2.** A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - 3.** A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of, the public, or conflict with the Municipal Code.
- H.** Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 19.16.050 through 19.16.080 are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- I.** Upon consideration of the factors in this Section and the purposes of this Chapter, the Commission may impose conditions to the granting of flood control variances as it deems necessary to further the purposes of this Chapter.
- J.** Any applicant to whom a variance is granted shall be given written notice that:

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

- 2.** Such construction below base flood level increases risks to life and property. A copy of the notice shall be recorded by the City Engineer in the office of the San Bernardino County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. **(MC 1062 11/15/99)**

- K.** The City Engineer shall maintain the records of variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency. **(MC 1062 11/15/99)**