

ORDINANCE NO. 5062

**ORDINANCE AMENDING CHAPTER 15.74 OF THE
BAKERSFIELD MUNICIPAL CODE RELATING TO FLOOD
DAMAGE PREVENTION**

BE IT ORDAINED by the Council of the City of Bakersfield as follows:

SECTION 1.

Chapter 15.74 of the Bakersfield Municipal Code is hereby amended to read as follows:

Chapter 15.74 FLOOD DAMAGE PREVENTION

PART I. Statutory authorization, Findings of fact, Purpose, and Methods.

15.74.005 Statutory authorization—Findings of fact.

- 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. The city is likewise empowered by its Charter.
- B. Findings of Fact.
 - 1. The flood hazard areas of the city are subject to periodic inundation which results in loss of life or property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
 - 2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and, when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to flood loss.

15.74.010 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:

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

The provisions of this chapter are intended to supplement and complement those of Chapters 17.42 and 17.44 of the municipal code. Whenever satisfaction of the requirements of any of these three chapters effectively accomplish the intent of the others, authority is specifically delegated to the building director to implement procedures to avoid redundancy and simplify processing of required permits.

15.74.020 Methods of reducing flood losses.

In order to reduce flood losses, this chapter provides for:

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

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

PART II. Definitions.

15.74.025 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.

- 1. A zone: See Special flood hazard area.
- 2. AE zone: See special flood hazard area.
- 3. AO zone: See special flood hazard area.
- 4. Accessory structure means a structure that is either:
 - a. Solely for the parking of no more than 2 cars; or
 - b. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.
- 5. Agricultural Structure means 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.

6. Alluvial fan means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
7. Appeal means a request for a review of the administrators interpretation of any provision of this chapter or a request for an exemption.
8. Appex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
9. Area of shallow flooding means a designated AO, AH or VO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
10. Area of special flood hazard: See special flood hazard area.
11. Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the one hundred-year flood).
12. Base flood elevation (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.
13. Basement means any area of the building having its floor subgrade (below ground level) on all sides.
14. Building -- see structure.
15. Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
16. Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

17. Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of street, and either final site grading or the pouring of concrete pads) is completed before May 1, 1985, the date which the first flood management ordinance was adopted.
18. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
19. Flood, flooding, or flood water means:
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflow); and
 - b. The condition resulting from flood-related erosion.
20. Flood Boundary and Floodway Map (FBFM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazard and the floodway.
21. Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
22. Flood insurance study means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the flood boundary and floodway map, and the water surface elevation of the base flood.
23. Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).
24. Floodplain administrator means the individual appointed to administer and enforce the floodplain management regulations.

25. 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 and floodplain management regulations, and open space plans.
26. Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
27. Flood proofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to NFIP Technical Bulletins TB1, TB2, TB3, and TB7 (2021) for guidelines on dry and wet flood proofing.)
28. Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as regulatory floodway.
29. Floodway fringe means that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.
30. Fraud and victimization, as related to Section 15.74.180 of this chapter, 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 base flood elevation are subject, during all those years, to increased risk of damage from floods, while future owners of the properties 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.

31. Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.
32. Government body is the City of Bakersfield, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.
33. Hardship as related in this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, Aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
34. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
35. Historic structure means any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Department of the Interior as meeting the requirements for individual listing on the National Register; or
 - b. Certified or preliminarily determined by the Department of the Interior as contributing to the historical significance or a registered historic district or a district preliminarily determined by the Department to qualify as a registered historic district; or
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Department of Interior; or

- d. 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 Department of the Interior or directly by the Secretary of the Interior in states without an approved program.
36. 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.
37. Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.
38. Lowest floor means the lowest floor of the lowest enclosed area (including basement).
- a. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - i. The wet floodproofing standard;
 - ii. The anchoring standards;
 - iii. The construction materials and methods standards; and
 - iv. The standards for utilities.
 - b. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see Basement definition). This prohibition includes below-grade garages and storage areas.
39. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty consecutive days.

40. Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.
41. Market value shall be determined by estimating the cost to replace the structure in new condition 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 as approved by the floodplain administrator, 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.
42. Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.
43. New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after May 1, 1985, the effective date of the floodplain management regulation adopted by this community, and includes any subsequent improvement to such structures.
44. New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after May 1, 1985, the effective date of floodplain management regulations adopted by this community.
45. Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its

location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

46. One-hundred-year-flood or 100-year flood: see base flood.
47. Person means an individual or his agent, firm, partnership, association, or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.
48. Program deficiency means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.
49. Public safety and nuisance as related to Section 15.74.180 of this chapter, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.
50. Recreational vehicle means a vehicle which is:
 - a. Built on a single chassis; and
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light-duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
51. 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.
52. 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 federal financial exposure with regard to the structure or other development.

53. Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
54. Special flood hazard area (SFHA) means an area having special flood or flood-related erosion hazards, and shown on an FHBM or FIRM as zone A, AO, A1-30, AE, A99, AH, or
55. Start of construction includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include 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.
56. Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.
57. 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 percent of the market value of the structure before the damage occurred.
58. a. Substantial improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:
 - i. Before the improvement or repair is started; or

- ii. If the structure has been damaged, and is being restored, before the damage occurred.
 - b. 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:
 - i. 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
 - ii. Any alteration of a historic, provided that the alteration will not preclude the structure's continued designation as a "historical structure."
- 59. Variance means a grant of relief from the requirements of the ordinance codified herein which permits construction in a manner that would otherwise be prohibited by this chapter, called an exemption herein.
- 60. Violation means the failure of a structure or other development to be fully compliant with the city'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.
- 61. Water surface elevation means the height, in relation to the North American Vertical Datum of 1988 (NAVD88) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- 62. 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.

PART III. General Provisions.

15.74.030 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city.

15.74.040 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard are identified by the Federal Insurance Administration, through the Federal Emergency Management Agency in a scientific study and engineering report entitled, The Flood Insurance Study for the City of Bakersfield, effective May 1, 1985, with the accompanying flood insurance rate map (including future amendments thereto) which is adopted by reference and declared to be a part of this section. The various flood insurance studies, flood insurance rate maps and flood boundary and floodway maps and all subsequent amendments and/or revisions which are hereby adopted by reference are on file at the office of the city engineer, 1501 Truxtun Avenue, Bakersfield, California. The Federal Insurance study 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 Bakersfield City Council by the Flood Plain Administrator.

15.74.041 Severability.

This chapter and the various parts thereof are hereby 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.

15.74.050 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. 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.

15.74.060 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 any

other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.74.070 Interpretation.

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

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

15.74.080 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 manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, 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 hereunder.

PART IV. Administration.

15.74.090 Designation of administrator.

The building director is appointed administrator to implement this chapter by granting or denying development permit applications in accordance with its provisions.

15.74.100 Duties and responsibilities of the administrator.

- A. Permit Review. Review all development permits to determine:
 - 1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures; and
 - 2. All other required state and federal permits have been obtained; and

3. The site is reasonably safe from flooding; and
 4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of Bakersfield; and
 5. All Letters of Map Revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.
- B. Development of Substantial Improvement and Substantial Damage Procedures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, 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, when 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;
 5. Use FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop further detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "market value"; and
 6. Assure procedures are coordinated with other departments/divisions and implemented by community staff.
- C. Review, use and development of other base flood data. When base flood elevation data has not been provided in accordance with Section 15.74.040, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Part V of this chapter (Provisions for flood hazard and reduction).

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

- D. Notification of other agencies.
1. Alteration or relocation of a water course:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
 2. Base flood elevation changes due to physical alterations:

- a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - b. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition. 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.
- E. Documentation of floodplain development. Obtain and maintain for public inspection and make available as needed the following:
1. Certification required by Section 15.74.120 (C)(1) and Section 15.74.150 (lowest floor elevations);
 2. Certification required by Section 15.74.120(C)(2) (elevation or floodproofing of nonresidential structures);
 3. Certification required by Section 15.74.120(C)(3) (wet floodproofing standard);
 4. Certification of elevation required by Section 15.74.150 (subdivisions and other proposed development standards);
 5. Certification required by Section 15.74.170 (floodway encroachments); and
 6. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued to the Federal Emergency Management Agency.
- F. Map Determination. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Part VI (Exemption and Appeal Procedure) of this chapter.

- G. Remedial Action. Take action to remedy violations of this ordinance as specified in Section 15.74.050 of this chapter.
- H. Planning. Assure community's General Plan is consistent with floodplain management objectives herein.

15.74.110 Development Permit.

A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 15.74.040. Application for a development permit shall be made on forms furnished by the city. The applicant shall provide the following minimum information:

- A. Plans in duplicate, drawn to scale, showing:
 - 1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 - 2. Proposed locations of water supply, sanitary sewer, and other utilities;
 - 3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - 4. Location of the regulatory floodway when applicable;
 - 5. Base flood elevation information as specified in Section 15.74.040 or Section 15.74.100.(C);
 - 6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 - 7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 15.74.120.(C)(2) of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.
- B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 15.74.120.(C)(2).
- C. For a crawl-space foundation, location and total net area of foundation openings as required in Section 15.74.120.(C)(3) of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.

- D. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices that describes the extent to which any watercourse will be altered or relocated as a result of proposed development, and demonstrates the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 15.74.110 (F) of these regulations.
- E. All appropriate certifications listed in Section 15.74.100.(E) of this ordinance.
- F. Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional 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.

PART V. Provisions for Flood Hazard Reduction

15.74.120 Standards of construction.

In all areas of special flood hazard (including all areas designated as floodplain secondary under Chapter 17.44 of this code), the standards set forth in this article shall be satisfied.

- A. Anchoring.
 - 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - 2. All mobile home units shall meet the anchoring standards of Section 15.74.160(A).

- B. Construction Materials and Methods. All new construction and substantial improvements shall be constructed:
1. With flood resistant materials as specified in FEMA Technical Bulletin TB 2-08, and utility equipment resistant to flood damage;
 2. Using methods and practices that minimize flood damage;
 3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 4. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- C. Elevation and Floodproofing.
1. Residential construction, new or substantial improvement shall have the lowest floor, including basement:
 - a. Buildings and structures in flood hazard areas shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305mm), or the design flood elevation, whichever is higher.
 - b. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated to a height above the highest adjacent grade of not less than the depth number specified in feet (mm) on the FIRM plus 1 foot (305mm), or not less than 3 feet (915mm) if a depth number is not specified.
 - c. Basement floors that are below grade on all sides shall be elevated to or above base flood elevation plus 1 foot (305mm), or the design flood elevation, whichever is higher.
 - d. Exception: Enclosed areas below the designed flood elevation, including basements with floors that are not below grade on all sides, shall meet the requirements of CRC section R322.2.2.
 - e. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a California registered engineer or California licensed surveyor, and verified

by the city of Bakersfield building director or designee to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

2. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 15.74. 120 (C)(1) or together with attendant utility and sanitary facilities:
 - a. Be floodproofed below the elevation required under Section 15.74.120(C)(1) so that the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certification shall be provided to the floodplain administrator.
3. Flood openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletins TB 1-20 and TB 7-20, and must exceed the following minimum criteria:
 - a. Have 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. 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; or
 - b. Be certified by a registered professional engineer or architect.
4. Manufactured homes shall also meet the above standards.

15.74.130 Standards for storage of materials and equipment.

- A. The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive, or could be injurious to human, animal, or plant life, is prohibited.

- B. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.

15.74.140 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.

15.74.150 Standards for subdivisions.

- A. All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
 - 1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE); and
 - 2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
- B. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered engineer or licensed land surveyor and shall be provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the floodplain administrator:
 - 1. Lowest floor elevation;
 - 2. Pad elevation; and
 - 3. Lowest adjacent grade.
- C. All subdivision maps for real property within areas of special flood hazards shall be consistent with the need to minimize flood damage.

- D. All subdivision maps for real property within areas of special flood hazards shall provide for public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- E. All subdivision maps for real property within areas of special flood hazards shall provide for adequate drainage to reduce exposure to flood damage. Certification of compliance shall be required of the developer prior to recordation.

15.74.160 Standards for mobile homes, mobile home parks and manufactured homes.

- A. All new mobile homes and additions to mobile homes within areas of special flood hazards shall be set on permanent foundation by anchoring the unit to resist flotation, collapse, or lateral movement by one of the following methods:
 - 1. By providing an anchoring system designed to withstand horizontal forces of fifteen pounds per square foot and uplift forces of nine pounds per square foot; or
 - 2. By the anchoring of the units system, designed to be in compliance to the Department of Housing and Urban Development Mobile Home Construction and Safety Standards; or
 - 3. By bolting the frame or undercarriage to a reinforced, permanent foundation such as a retaining wall or storm wall used to set the unit.
- B. Certification that the standards above have been satisfied shall be required of the installer or state agency responsible for regulating the placement, installation, and anchoring of individual mobile home units, such certification to be filed with the administrator.
- C. The following standards are required for (a) mobile homes not placed in mobile home parks or subdivisions, (b) new mobile home parks or subdivisions, (c) expansions to existing mobile home parks or subdivisions, and (d) repair, reconstruction, or improvements to existing mobile home parks or subdivisions that equals or exceeds fifty percent of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced within areas of special flood hazards:
 - 1. Adequate surface drainage and access for a hauler shall be provided:

2. All mobile homes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile home is at or above the base flood level. If elevated on pilings:
 - a. The pilings shall be placed in stable soil no more than ten feet apart, and
 - b. Reinforcement shall be provided for pilings more than six feet above ground level;
 3. Certification of compliance, filed with the administrator, is required of the developer responsible for the plan or state agency responsible for regulating mobile home placement.
- D. All manufactured homes that are placed or substantially improved, within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, on sites located:
1. Outside of a manufactured home park or subdivision,
 2. In a new manufactured home park or subdivision,
 3. In an expansion to an existing manufactured home park or subdivision, or
 4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated above the base flood elevation by a minimum of one foot and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- E. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of this section will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
1. Lowest floor of the manufactured home is at or above the base flood elevation, or

2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade.
- F. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a California registered engineer or California licensed surveyor, and verified by the city of Bakersfield building director or designee to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

15.74.165 Standards For Recreational Vehicles

- A. Temporary placement. Recreational vehicles in flood hazard areas, shall be placed on a site for less than 180 consecutive days or shall be fully licensed and ready for highway use. Ready for highway use means the recreational vehicle is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, such as rooms, stairs, decks, and porches.
- B. Permanent placement. Recreational vehicles that do not meet the limitations in Section 15.74.165A for temporary placement shall meet the requirements of Section 15.74.160 for manufactured homes.

15.74.170 Floodways.

Within all areas designated as floodplain primary under Chapter 17.42 of this code or included within the state regulatory floodway, encroachment, including fill, new construction, substantial improvements, and other development is prohibited unless hydrologic and hydraulic analyses by a registered professional engineer are provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge, except as the purposes set forth in Section 17.42.020 are otherwise accomplished.

PART VI. Exemption and Appeal Procedures

15.74.180 Board of zoning adjustment designated.

- A. The board of zoning adjustment, as established by Section 2.28.090 of this code, is designated to hear and decide appeals and requests for exemptions from the requirements of this chapter. Except as may be required in connection with other proceedings with which determination on a requested exemption is combined, no public hearing is required. The decision of the board of zoning adjustment on appeals and requests for exemptions shall be final.

- B. The board of zoning adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the administrator of this chapter.
- C. In passing upon appeals and requests for exemption, the board of zoning adjustment 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 flood waters 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.

- D. Generally, exemptions may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subsection D of Section 15.74.190 has been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- E. Upon consideration of the factors of subsection D of Section 15.74.190 and the purpose of this chapter, the city of Bakersfield board of zoning Adjustment may attach such conditions to the granting of exemptions as it deems necessary to further the purpose of this chapter, and upon the issuance of any exemption to construct a structure below the base flood level that notice will be given that increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one-hundred dollars of coverage may result, and that such construction below the base flood level increases the risk to life and property. The board of zoning adjustment may require the flood plain administrator to record a copy of this notice in the office of the County Recorder in such a manner that it appears in the chain of title of the affected parcel of land.
- F. The floodplain administrator shall maintain a record of all appeal actions, including the justification for the issuances of any exceptions, and report such exceptions issued in required reports submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

15.74.190 Conditions for granting exemptions, variances.

- A. The granting of an exception is a discretionary act. Upon receipt of a request for an exception, the administrator shall request the development services department to undertake an initial study pursuant to city council's CEQA resolution. Fees as set by city council resolution shall be paid upon submission of each request for an exception.
- B. Variances may be issued for the repairs or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Exemptions shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- D. Exemptions shall only be issued upon a determination that it is the minimum necessary, considering the flood hazard, to afford relief.
- E. Exemptions shall only be issued upon:
 - 1. A showing of good and sufficient cause such as renovation, rehabilitation, or reconstruction. Exemptions may not be issued based upon economic considerations, aesthetics, or because variances have been used in the past;
 - 2. A determination that failure to grant the exemption would result in exceptional hardship to the applicant; and
 - 3. A determination that the granting of an exemption 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 an exemption is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation.

SECTION 2.

This Ordinance shall be posted in accordance with the provisions of the Bakersfield Municipal Code and shall become effective thirty (30) days from and after the date of its passage.

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I HEREBY CERTIFY that the foregoing Ordinance was passed and adopted by the Council of the City of Bakersfield at a regular meeting thereof held on SEP 15 2021, by the following vote:

<u>AYES:</u>	COUNCILMEMBER:	ARIAS, GONZALES, WEIR, SMITH, FREEMAN, GRAY, PARLIER
NOES:	COUNCILMEMBER:	<u>NONE</u>
ABSTAIN:	COUNCILMEMBER:	<u>NONE</u>
ABSENT:	COUNCILMEMBER:	<u>NONE</u>

Julie Drimakis

JULIE DRIMAKIS, MMC
CITY CLERK and Ex Officio Clerk of the
Council of the City of Bakersfield

APPROVED: SEP 15 2021

By: *Karen Goh*
KAREN GOH, Mayor
CITY OF BAKERSFIELD

APPROVED AS TO FORM:

VIRGINIA GENNARO
City Attorney

By: *Ashley Zambrano*
ASHLEY E. ZAMBRANO
Deputy City Attorney

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