

ORDINANCE NO. 721 N.S.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF PASO ROBLES AMENDING CHAPTER 21.14 OF TITLE 21
(ZONING) OF THE EL PASO DE ROBLES MUNICIPAL CODE**

The CITY COUNCIL of the City of El Paso de Robles, California does ordain as follows:

Section 1. Chapter 21.14 (excluding 21.14A) of Title 21 is **repealed** in its entirety and replaced as follows:

Chapter 21.14

FLOODPLAIN MANAGEMENT ORDINANCE

Sections:

21.14.010	STATUTORY AUTHORIZATION
21.14.020	FINDINGS OF FACT
21.14.030	STATEMENT OF PURPOSE
21.14.040	METHODS OF REDUCING FLOOD LOSSES
21.14.050	DEFINITIONS
21.14.060	LANDS TO WHICH THIS ORDINANCE APPLIES
21.14.070	BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD
21.14.080	COMPLIANCE
21.14.090	ABROGATION AND GREATER RESTRICTIONS
21.14.100	INTERPRETATION
21.14.110	WARNING AND DISCLAIMER OF LIABILITY
21.14.120	SEVERABILITY
21.14.130	ESTABLISHMENT OF DEVELOPMENT PERMIT
21.14.140	DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR
21.14.150	DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR
21.14.160	APPEALS
21.14.170	STANDARDS OF CONSTRUCTION
21.14.180	STANDARDS FOR UTILITIES
21.14.190	STANDARDS FOR SUBDIVISIONS
21.14.200	STANDARDS FOR MANUFACTURED HOMES
21.14.210	STANDARDS FOR RECREATIONAL VEHICLES
21.14.220	FLOODWAYS
21.14.230	MUDSLIDE (i.e., MUDFLOW) PRONE AREAS
21.14.240	FLOOD-RELATED EROSION-PRONE AREAS

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3. Viewed neither to limit nor repeal any other powers granted under state statutes.

21.14.110 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this Ordinance 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 Ordinance 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 Ordinance shall not create liability on the part of the City of Paso Robles, any of Officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

21.14.120 SEVERABILITY.

This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

21.14.130 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 21.14.070. Application for a development permit shall be made on forms furnished by the Floodplain Administrator 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 the foregoing. Specifically, the following information is required.

1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures - in Zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures; or
2. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed, if required in Section 21.14.170; and
3. All appropriate certifications listed in Section 21.14.150 of this Ordinance; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

21.14.140 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The City Engineer is hereby appointed to administer, implement, and enforce this Ordinance by granting or denying development permits in accord with its provisions.

21.14.150 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following.

1. Permit Review. Review all development permits to determine that
 - a. Permit requirements of this Ordinance have been satisfied,
 - b. All other required state and federal permits have been obtained,
 - c. The site is reasonably safe from flooding, and
 - d. 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. For purposes of this Ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

2. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 21.14.070, 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 Sections 21.14.170 through 21.14.240. Any such information shall be submitted to the City Council for adoption.

3. Notification of Other Agencies. In alteration or relocation of a watercourse:

- a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
- b. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and
- c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

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

- a. Certification required by Section 21.14.170 (lowest floor elevations),
- b. Certification required by Section 21.14.170 (elevation or flood proofing of nonresidential structures),
- c. Certification required by Sections 21.14.170 (wet floodproofing standard)
- d. Certification of elevation required by Section 21.14.190 (subdivision standards),
- e. Certification required by Section 21.14.220 (floodway encroachments),
- f. Reports required by Section 21.14.230 (mudflow standards).

5. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, 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 Sections 21.14.150 through 21.14.270.

6. Remedial Action. Take action to remedy violations of this Ordinance as specified in Section 21.14.080.

21.14.160 APPEALS.

The City Council of the City of Paso Robles shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.

21.14.170 STANDARDS OF CONSTRUCTION.

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

1. Anchoring

- a. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. All manufactured homes shall meet the anchoring standards of Section 21.14.200.

2. Construction materials and methods. All new construction and substantial improvement shall be constructed:

- a. With materials and utility equipment resistant to flood damage;
- b. Using methods and practices that minimize flood damage;
- c. 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 if
- d. 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.

3. Elevation and flood proofing. (See Section 21.14.050 definitions for "basement," "lowest floor," "new construction," "substantial damage," and "substantial improvement".)

- a. Residential construction, new or substantial improvement, shall have the lowest floor, including basement,
 - (1) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet

above the highest adjacent grade if no depth number is specified. *(The State of California recommends that the lowest floor be elevated above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.)*

- (2) In an A zone, elevated to **or above the** base flood elevation, as determined by Flood Plain Administrator. *(The State of California recommends the lowest floor be elevated at least one foot above the Base Flood Elevation, as determined by the City of Paso Robles.)*
- (3) In all other Zones, elevated to or above the base flood elevation. *(The State of California recommends the lowest floor be elevated at least one foot above the base flood elevation.)*

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the City building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.

- b. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 21.14.170 or together with attendant utility and sanitary facilities
 - (1) Be floodproofed below the elevation recommended under Section 21.14.170 so that 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 Section (21.14.170) are satisfied. Such certification shall be provided to the Floodplain Administrator.
- c. All new construction and substantial improvement 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 must exceed the following minimum criteria:
 - (1) Be certified by a registered professional engineer or architect;
 - (2) 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

or

other coverings or devices provided that they permit the automatic entry and exit of floodwater.

- d. Manufactured homes shall also meet the standards in Section 21.14.200

21.14.180 STANDARDS FOR UTILITIES.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

- a. Infiltration of flood waters into the systems, and
- b. Discharge from the systems into flood hazards.

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

21.14.190 STANDARDS FOR SUBDIVISIONS.

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

2. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

3. All subdivision proposals shall be consistent with the need to minimize flood damage.

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

5. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

21.14.200 STANDARDS FOR MANUFACTURED HOMES.

1. All manufactured homes that are placed or substantially improved, within Zones AI-30, AH, and AE on the City's Flood Insurance Rate Map, on sites located

- a. Outside of a manufactured home park or subdivision,
- b. In a new manufactured home park or subdivision,
- c. In an expansion to an existing manufactured home park or subdivision, or
- d. 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.

All manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation (*the State of California recommends at least one foot*

above the base Flood elevation) and be securely anchored to an adequately fastened foundation system to resist flotation collapse and lateral movement.

2. All manufactured homes that are placed or substantially improved on sites located within Zones VI-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 21.14.210.

3. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones AI-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of paragraph 5.4 A will be securely fastened to an adequately anchored foundation system to resist flotation collapse, and lateral movement, and be elevated so that either the:

- a. Lowest floor of the manufactured home is at or above the base flood elevation (*the State of California recommends at least one foot above the base flood elevation*), or
- b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

21.14.210 STANDARDS FOR RECREATIONAL VEHICLES.

1. All recreational vehicles placed on sites within Zones AI-30, AH, and AE on the community's Flood Insurance Rate Map will either:

- a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use -- a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
- b. Meet the permit requirements of Section 21.14.130 through 21.14.160 of this Ordinance and the elevation and anchoring requirements for manufactured homes in Section 21.14.200.

2. Recreation vehicles placed on sites within Zones VI-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 21.14.210.

21.14.220 FLOODWAYS.

Located within areas of special flood hazard established in Section 21.14.070 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 apply.

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

2. If Section 21.14.220 is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 21.14.170 through 21.14.240.

21.14.230 MUDSLIDE (I.e+, MUDFLOW) PRONE AREAS

1. The Floodplain Administrator shall review permits for proposed construction of other development to determine if it is proposed within a mudslide area.

2. Permits shall be reviewed to determine that the proposed site and improvement will be reasonably safe from mudslide hazards. Factors to be considered in making this determination include but are not limited to the

- a. Type and quality of soils,
- b. Evidence of ground water or surface water problems,
- c. Depth and quality of any fill,
- d. Overall slope of the site, and
- e. Weight that any proposed development will impose on the slope.

3. Within areas which may have mudslide hazards, the Floodplain Administration shall require that:

- a. A site investigation and further review be made by persons qualified in geology and soils engineering;
- b. The proposed grading, excavation, new construction, and substantial improvement be adequately designed and protected against mudslide damages;
- c. The proposed grading, excavations, new construction, and substantial improvement not aggravate the existing hazard by creating either on-site or off-site disturbances; and
- d. Drainage, planting, watering, and maintenance not endanger slope stability.

21.14.240 FLOOD-RELATED EROSION-PRONE AREAS.

1. The Floodplain Administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.

2. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably 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, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

4. Within Zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated "useful life" of structures,

and depending upon the geologic, hydrologic, topographic, and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

21.14.250 NATURE OF VARIANCES.

The variance criteria set forth in this section of the Ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Ordinance 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.

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

21.14.260 VARIANCES.

The City Council will approve all requests for variances.

1. In passing upon requests for variances, the City Council shall consider all technical evaluations, all relevant factors, standards specified in Sections 21.14.270 and other sections of this Ordinance, and the following:

- a. Danger that materials may be swept onto other lands to the injury of others;
- b. Danger of life and property due to flooding or erosion damage;
- c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- d. Importance of the services provided by the proposed facility to the community;
- e. Necessity to the facility of a waterfront location, where applicable;
- f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- g. Compatibility of the proposed use with existing and anticipated development;

- h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
- j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
- k. 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.

2. Any applicant to whom a variance is granted shall be given written notice over the signature of the Floodplain Administrator or his/her designee that:

- a. 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
- b. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the San Luis Obispo County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

3. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

21.14.270 CONDITIONS FOR VARIANCES.

1. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 21.14.130 through 21.14.160 and 21.14.170 through 21.14.240 of this Ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in this Ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

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

4. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford **relief with a minimum** of deviation from the requirements of this Ordinance. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission

for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of the local Ordinance.

5. Variances shall only be issued upon a
 - a. Showing of good and sufficient cause;
 - b. Determination that failure to grant the variance would result in exceptional "hardship" (as defined in Section 21.14.050 of this Ordinance) to the applicant; and
 - c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 21.14.050 - see "**Public safety or nuisance**"), cause fraud or victimization (as defined) of the public, or conflict with existing local laws or Ordinances.

6. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 21.14.270 are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

7. Upon consideration of the factors of Section 21.14.260 and the purposes of this Ordinance, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

21.14.280 REMEDIES.

In addition to any remedies specified in this Ordinance, the remedies specified in Chapter 1.02 of the Paso Robles Municipal Code shall apply.

Section 2.

Publication. The City Clerk shall cause this Ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed published and circulated in the City, in accordance with Section 36933 of the Government Code.

Section 3.

Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage

Section 4.

Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City Ordinance(s), motion, resolution, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules and regulations are hereby repealed.

21.14.250	NATURE OF VARIANCES
21.14.260	APPEAL BOARD
21.14.270	CONDITIONS FOR VARIANCES

FLOODPLAIN MANAGEMENT
ORDINANCE

21.14.010 STATUTORY AUTHORIZATION.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Paso Robles, County of San Luis Obispo does hereby adopt the following Floodplain Management Regulations.

21.14.020 FINDINGS OF FACT.

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

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

21.14.030 STATEMENT OF PURPOSE.

It is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

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

Section 5.

Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared invalid.

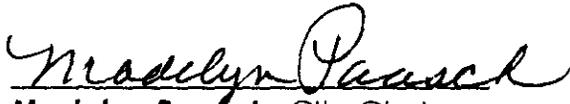
Introduced as a regular meeting of the City Council held on February 4, 1997, and passed and adopted by the City Council of the City of El Paso de Robles on the 18th day of February, 1997, by the following roll call vote:

AYES:	Baron, Iversen, Macklin, Swanson, and Picanco
NOES:	None
ABSENT:	None
ABSTAIN:	None



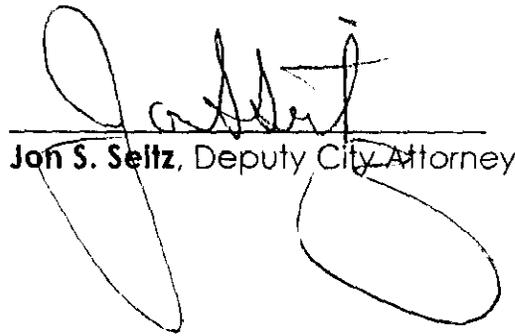
Duane Picanco, Mayor

ATTEST:



Madelyn PaaSch, City Clerk

APPROVED AS TO FORM:



Jon S. Seitz, Deputy City Attorney

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"Area of special mudslide (i.e., mudflow) hazard" is the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the Flood Insurance Rate Map (FIRM).

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this Ordinance.

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

"Building" - see **"Structure"**.

"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.

"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.

"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 streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the Floodplain Management Regulations adopted by a community.

"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).

"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., mudflows)-- see **"Mudslides"**; and
- b. The condition resulting from flood-related erosion - see **"Flood-related erosion"**.

"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 hazards and the floodway.

"Flood Hazard Boundary Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

"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.

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

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

"Floodplain Administrator" is the individual appointed to administer and enforce the Floodplain Management Regulations.

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

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

"Floodproofing" 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.

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

"Flood-related erosion area" or "Flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and Floodplain Management Regulations.

"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".

"Floodway fringe" is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

"Fraud and victimization" as related to Section 21.14.250 through 21.14.270, **Variances**, of this Ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Paso Robles 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 property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" 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.

"Governing body" is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship" as related to 21.14.250 through 21.14.270, **Variances**, of this Ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The City of Paso Robles requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

"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 Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 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 Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

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

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

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see **"Basement"** definition).

- 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 included, but not limited to:
- (1) The wet floodproofing standard in Section 21.14.170.
 - (2) The anchoring standards in Section 21.14.170.
 - (3) The construction materials and methods standards in Section 21.14.170.
 - (4) The standards for utilities in Section 21.14.180.
- 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.

"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 attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

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

"Mean sea level" means, 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.

"Mudslide" (i.e., mudflow) describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

"Mudslide (i.e., mudflow) prone area" means an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

"New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of Floodplain Management Regulations adopted by this community, and includes any subsequent improvements to such structures.

"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 the effective date of Floodplain Management Regulations management regulations adopted by this community.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood" - see **"Base flood."**

"Public safety and nuisance" as related to Section 21.14.250 and 21.14.270, **Variances**, of this Ordinance means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is

- a. Built on a single chassis;
- 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.

"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 the Ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

"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.

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

"Sheet flow area" - see **"Area of shallow flooding"**.

"Special flood hazard area (SFHA)" means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, E, or M.

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

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

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

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either

- a. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure". -

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

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

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

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

21.14.060 LANDS TO WHICH THIS ORDINANCE APPLIES.

This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Paso Robles.

21.14.070 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated March 1981 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated September 1981, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Ordinance. The FIS and attendant mapping is the minimum area of applicability of this Ordinance and may be supplemented by studies for other areas which allow implementation of this Ordinance and which are recommended to the City Council by the Floodplain Administrator. The study, FIRMs and FBFMs are on file at 1000 Spring Street, Paso Robles, CA.

21.14.080 COMPLIANCE.

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

21.14.090 ABROGATION AND GREATER RESTRICTIONS.

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

21.14.100 INTERPRETATION.

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and