



Resource Management Agency COUNTY OF TULARE AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
J. STEVEN WORTHLEY
District Four
MIKE ENNIS
District Five

AGENDA DATE: August 28, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
CONTACT PERSON: Celeste Perez PHONE: (559) 624-7010				

SUBJECT: Updates to the Flood Damage Prevention Ordinance, Chapter 27, Part VII of the Tulare County Ordinance Code

REQUEST(S):
That the Board of Supervisors:

On August 28, 2018

1. Introduce and waive the first reading of an ordinance adding section 7-27-1021 to and amending sections 7-27-1010, 7-27-1025, 7-27-1030, and 7-27-1180 of Chapter 27 of Part VII of the Ordinance Code of Tulare County, pertaining to Flood Damage Prevention; and
2. Receive a presentation on the proposed amendment to the ordinance pertaining to Flood Damage Prevention; and
3. Set the second reading of the amendment to the ordinance for September 11, 2018; and
4. Direct the Clerk to publish such Ordinance Summary and to post a certified copy of the Ordinance at least five (5) days prior to the ordinance amendment adoption date as required by Section 25124 of the Government Code.

On September 11, 2018

1. Waive the second reading and adopt an ordinance adding section 7-27-1021 to and amending sections 7-27-1010, 7-27-1025, 7-27-1030, and 7-27-1180 of Chapter 27 of Part VII of the Ordinance Code of Tulare County, pertaining to Flood Damage Prevention; and
2. Direct the Clerk to publish a summary of the ordinance and post a full copy of the ordinances after adoption as required by law; and

SUBJECT: Updates to the Flood Damage Prevention Ordinance, Chapter 27, Part VII of the Tulare County Ordinance Code

DATE: August 28, 2018

3. Approve a general rule exemption (14 Cal. Code. Regs. § 15061(b)(3), and a Class 8 Categorical Exemption, (14 Cal. Code. Regs. § 15308) pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines in connection with adoption of the proposed ordinances referenced below; and
4. Direct the Environmental Assessment Officer of the Tulare County Resource Management Agency, or designee, to file a Notice of Exemption with the Tulare County Clerk in accordance with the above-referenced actions.

SUMMARY:

The County participates in the Federal Emergency Management Agency (FEMA) National Flood Insurance Program (NFIP). FEMA, acting locally through the California Department of Water Resources (DWR), periodically audits counties and municipalities to assure their local programs that implement the NFIP conform to national requirements in terms of supporting ordinances, record keeping, implement policies and procedures. Tulare County recently underwent such an audit, wherein it was determined that Tulare County would need to update its Flood Damage Prevention in conformance with new requirements. The ordinance amendments recommended in this action will bring our ordinance code into conformance with FEMA requirements. Staff worked with DWR to determine what updates were necessary and the result is the attached ordinance. If the County does not provide a conforming ordinance code, FEMA will place Tulare County on probation and no flood insurance will be available to County residents, federally backed housing loans and the ability to secure federal grant funding will be lost.

The recommended ordinance includes minor and clarifying changes in definition, limitation, and procedures regarding development and building permitting requirements. In Section 7-27-1010 Definitions, the definition of “Substantial Improvement” was updated. Certain definitions were added and changed as part of Section 7-27-1010, including the definitions for “Substantial Improvement”, “ASCE 24”, “California Building Code (CBC)”, and “Design Flood Elevation (DFE)”. A new section, 7-27-1021, is to be added regarding Coordination with the California Building Code. Section 7-27-1025 Compliance, Section 7-27-1030 Abrogation and Greater Restrictions, and Section 7-27-1180 Elevation and Floodproofing are all to be updated as well.

This ordinance has been updated most recently by Tulare County Ordinance 3436. Staff worked closely with County Counsel in the preparation of the text of the ordinance.

FISCAL IMPACT/FINANCING:

No Net County Cost. Failure to adopt the Ordinance changes could result in probation status in the NFIP program with severe financial consequences to the flood insurance policy holders within the County and possible disqualification of the County from certain federal grant funding programs.

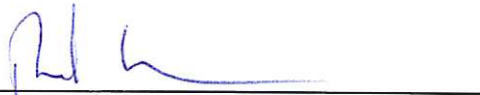
SUBJECT: Updates to the Flood Damage Prevention Ordinance, Chapter 27, Part VII of the Tulare County Ordinance Code

DATE: August 28, 2018

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes the Safety and Security Initiative to protect the health, safety and welfare of the County and its' residents. These proposed ordinances will protect the health, safety and welfare of the County and its' residents by updating the County's current ordinance for flood damage prevention and allowing the County and its residents to remain eligible for the National Flood Insurance Program.

ADMINISTRATIVE SIGN-OFF:



Reed Schenke, P.E.
Director

cc: County Administrative Office

Attachment(s)

- A. Ordinance Amendment Adding Section 7-27-1021 to and amending sections 7-27-1010, 7-27-1025, 7-27-1030, and 7-27-1180 of Chapter 27 of Part VII of the Ordinance Code of Tulare County, Pertaining to Flood Damage Prevention
- B. Ordinance Amendment Summaries Pertaining to Flood Damage Prevention
- C. Proposed Notice of Exemption

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF UPDATES TO THE) Resolution No. _____
FLOOD DAMAGE PREVENTION) Agreement No. _____
ORDINANCE, CHAPTER 27, PART VII OF)
THE TULARE COUNTY ORDINANCE)
CODE)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD AUGUST 28, 2018, BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Introduced and waived the first reading of an ordinance adding section 7-27-1021 to and amending sections 7-27-1010, 7-27-1025, 7-27-1030, and 7-27-1180 of Chapter 27 of Part VII of the Ordinance Code of Tulare County, pertaining to Flood Damage Prevention; and
2. Received a presentation on the proposed amendment to the ordinance pertaining to Flood Damage Prevention; and
3. Set the second reading of the amendment to the ordinance for September 11, 2018; and
4. Approved the Ordinance Summary and direct the Clerk to publish such Ordinance Summary and to post a certified copy of the Ordinance at least five (5) days prior to the ordinance amendment adoption date as required by Section 25124 of the Government Code.

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF UPDATES TO THE) Resolution No. _____
FLOOD DAMAGE PREVENTION) Agreement No. _____
ORDINANCE, CHAPTER 27, PART VII OF)
THE TULARE COUNTY ORDINANCE)
CODE)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD SEPTEMBER 11, 2018,
BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Waived the second reading and adopted an ordinance adding section 7-27-1021 to and amending sections 7-27-1010, 7-27-1025, 7-27-1030, and 7-27-1180 of Chapter 27 of Part VII of the Ordinance Code of Tulare County, pertaining to Flood Damage Prevention; and
2. Directed the Clerk to publish a summary of the ordinance and post a full copy of the ordinances after adoption as required by law; and
3. Approved a general rule exemption (14 Cal. Code. Regs. § 15061(b)(3), and a Class 8 Categorical Exemption, (14 Cal. Code. Regs. § 15308) pursuant to the California Environmental Quality Act (CEQA) and the State CEQA Guidelines in connection with adoption of the proposed ordinances referenced below; and
4. Directed the Environmental Assessment Officer of the Tulare County Resource Management Agency, or designee, to file a Notice of Exemption with the Tulare County Clerk in accordance with the above-referenced actions.

Attachment A

Ordinance Amendment Adding Section 7-27-1021 to and amending sections 7-27-1010, 7-27-1025, 7-27-1030, and 7-27-1180 of Chapter 27 of Part VII of the Ordinance Code of Tulare County, Pertaining to Flood Damage Prevention

ORDINANCE NO. _____
AN ORDINANCE ADDING SECTION 7-27-1021 TO AND AMENDING SECTIONS 7-27-1010, 7-27-1025, 7-27-1030, AND 7-27-1180 OF CHAPTER 27 OF PART VII OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO FLOOD DAMAGE PREVENTION.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1: The definition of "SUBSTANTIAL IMPROVEMENT" in Section 7-27-1010 is hereby amended to be read as follows:

"SUBSTANTIAL IMPROVEMENT" means any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a ten year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. For each building or structure, the ten-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to 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 of 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."

Section 2: Section 7-27-1010 is hereby amended to add the following definitions:

"ASCE 24" is a standard titled Flood Resistant Design and Construction that is referenced by the California Building Code (CBC). ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

"CALIFORNIA BUILDING CODE (CBC)" is the building code for California and is maintained by the California Building Standards Commission. Where referenced, the most current edition of the CBC should be assumed to apply.

"DESIGN FLOOD ELEVATION (DFE)" means the elevation of the "design flood", including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where a depth number is not specified on the map, the depth number shall be taken as being equal to two (2) feet.

Section 3: Section 7-27-1021 is hereby added to Chapter 27 of Part VII as follows:

7-27-1021 COORDINATION WITH THE CALIFORNIA BUILDING CODE:

These regulations are intended to be administered and enforced in conjunction with the current edition of the California Building Code (CBC), including all applicable standards referenced therein. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the CBC.

Section 4: Section 7-27-1025 is hereby amended to be read as follows:

7-27-1025 COMPLIANCE:

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these regulations and the CBC, including all standards referenced therein. Violations of the provisions of these regulations by failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Public Works Director from taking such lawful action as is necessary to prevent or remedy any violation.

Section 5: Section 7-27-1030 is hereby amended to be read as follows:

7-27-1030 ABROGATION AND GREATER RESTRICTIONS:

These regulations supersede any ordinance in effect for management of development in flood hazard area. However, these regulations are not intended to repeal, abrogate, or impair any existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the CBC. These regulations shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where these regulations and another chapter, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 6: Section 7-27-1180 is hereby amended to be read as follows:

7-27-1180 ELEVATION AND FLOODPROOFING:

(a) New construction and substantial improvement of any structure shall conform to the CBC and ASCE 24 as referenced herein shall have the bottom of the lowest floor, including basement, elevated in accordance with the minimum elevation requirements found in Chapter 2 and ASCE 24. Nonresidential structures may meet the optional standards in paragraph (d) of this Section. Prior to issuance of the occupancy permit or certificate, the elevation of the lowest floor, including the basement, shall be certified by a registered civil engineer or land surveyor that the elevation requirements have been met and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b).

(b) New construction and substantial improvement of any structure in Zone AO shall have the bottom of the lowest floor, including basement, elevated to or above the depth number specified on the Flood Insurance Rate Map (FIRM) as measured from the highest adjacent grade.

Nonresidential structures may meet the optional standards in paragraph (d) of this Section. Prior to issuing the occupancy permit, compliance with the elevation requirement shall be certified by a registered civil engineer or land surveyor and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b).

(c) If no base flood elevation or depth number is provided on the FIRM (Zone A), any new construction or substantial improvement of any structure shall have the bottom of the lowest floor, including basement, elevated to:

(1) Said base flood elevation shall be determined by one of the methods in Section 7-27-1100(b); or

(2) If the Planning and Development Director and Public Works Director determine that It is unreasonable to determine the base flood elevation pursuant to Section 7-27-1100(b) then the Planning and Development Director and Public Works Director may require that any new construction or substantial improvement of any structures defined in ASCE 24 shall have the bottom of the lowest floor, including basement, elevated to: a height of at least two feet above the highest adjacent grade or DFE, whichever is higher, found in Chapter 2 of ASCE 24.

Nonresidential structures may meet the optional standards set forth in paragraph (d) of this section. Prior to issuing the occupancy permit, compliance with the elevation requirement shall be certified by a registered civil engineer or land surveyor, and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b).

(d) Nonresidential structures with the lowest floor (including basement) below the minimum elevation specified in ASCE 24 Chapter 2 and nonresidential portions of mixed-use structures with the lowest floor (including basement) below the minimum elevation specified by Chapter 2 shall be allowed in conformance with the dry floodproofing requirements of ASCE 24 Section 6.2.

The elevation of the lowest floor (including basement), shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the County Surveyor at the following stages of development:

(1) During review of construction drawings. Submit a county approved preliminary elevation certificate prior to building permit issuance.

(2) During building construction, once the building pad has been developed or the foundation forms have been erected.

(3) After construction is completed. An elevation certificate will be required prior to the release of the building occupancy permit.

(e) Flood openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access 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 1-08 and TB 7-93, and must meet the following minimum criteria:

(1) For non-engineered openings:

- (A) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- (B) The bottom of all openings shall be no higher than one foot above grade;
- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of flood water; and
- (D) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or

(2) Be certified by a registered civil engineer or architect.

Section 7 . The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in the _____, a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

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THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the _____ day of _____, 20__, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: MICHAEL C. SPATA
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to Form:
County Counsel

By _____
Deputy
Matter # 20181145

Redline Version

Chapter 27. Flood
Damage Prevention

CHAPTER 27. FLOOD DAMAGE PREVENTION

ARTICLE 1. GENERAL PROVISIONS

7-27-1000 STATEMENT OF PURPOSE:

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

- (a) To protect human life and health;
- (b) To minimize the need for rescue and relief efforts associated with flooding;
- (c) To minimize potential property losses in special flood hazard areas;
- (d) To minimize damage to public facilities and utilities located in areas of special flood hazard;
- (e) To insure that potential buyers are notified that property is in an area of special flood hazard; and
- (f) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

7-27-1001 STATUTORY AUTHORIZATIONS:

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 Board of Supervisors of the County of Tulare does hereby adopt the floodplain management regulations set forth in this Chapter.

(Amended by Ord. No. 3212, effective 10-29-98)

7-27-1002 FINDINGS OF FACTS:

The flood hazard areas of the County of Tulare 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. 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.

7-27-1005 METHODS OF REDUCING FLOOD LOSSES:

In order to accomplish its purposes, this Chapter includes methods and provisions 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 flood plains, 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.
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

7-27-1010 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.

"ACCESSORY USE" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"ALLUVIAL FAN" is an area subject to flooding when the floodplain is comprised of low flow channels where sediment accompanies the shallow flooding and the unstable soils scour and erode during a flooding event.

"APPEAL" means a request for a review of the Floodplain Administrator's interpretation of any provision of this Chapter.

"AREA OF SHALLOW FLOODING" is a designated Zone A, AO, A1-A30, AE, A99, or AH on the Flood Insurance Rate Map. In these zones, the base flood depths range from one to three

feet; a clearly defined channel does not exist; the noticeable path of flooding is unpredictable and indeterminate; and noticeable velocity flow may be evident.

"AREA OF SPECIAL FLOOD HAZARD" has the same meaning as "SPECIAL FLOOD HAZARD AREA."

"ASCE 24" is a standard titled Flood Resistant Design and Construction that is referenced by the California Building Code (CBC). ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

"CALIFORNIA BUILDING CODE (CBC)" is the building code for California and is maintained by the California Building Standards Commission. Where referenced, the most current edition of the CBC should be assumed to apply.

"BASE FLOOD" is the flood having a one percent chance of being equaled or exceeded any given year.

"BASEMENT" means any area of the building having its floor subgrade (below ground level on all sides).

"BREAKAWAY WALLS" are any types of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is so designed as to break away under abnormal flood conditions without damage to the structural integrity of the building on which they are used or any building to which they might be carried by flood waters.

"BUILDING" has the same meaning as "Structure."

"BUILDING PERMIT" means a permit issued pursuant to Chapter 15 of Part VII of the Ordinance Code, including a mobile home installation permit.

"DESIGN FLOOD ELEVATION (DFE)" means the elevation of the "design flood", including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where a depth number is not

specified on the map, the depth number shall be taken as being equal to two (2) feet.

"DEVELOPMENT" is any man-made change to improved or unimproved real estate (including filling, grading, paving, excavation, mining, dredging, storage of equipment or materials, or drilling operations) located within the area of special flood hazard.

"ENCROACHMENT" means the advance of infringement of uses, plant growth, fill, excavation, building, 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 the County.

"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" OR "FLOODING" is a general and temporary condition of a partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland waters and/or
- (b) The unusual and rapid accumulation of runoff of surface waters from any source.

"FLOOD BOUNDARY FLOODWAY MAP" is the official map on which the Federal Emergency Management Agency has delineated both the areas of flood hazards and the floodways.

"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" or "FIRM" is the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"FLOOD INSURANCE STUDY" is the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map (FIRM), the Flood Boundary 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. Also see "Flood" or "Flooding."

"FLOODPLAIN ADMINISTRATOR" is the individual or individuals appointed to administer and/or enforce the floodplain management regulations. See Section 7-27-1095.

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

"FLOODPLAIN MANAGEMENT REGULATIONS" means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other applications 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 non-structural additions, changes or adjustments to non-residential structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93 and TB 7-93 for guidelines on dry and wet floodproofing).

"FLOOD-RELATED EROSION" is a condition that exists in conjunction with a flooding event that alters the composition of the bank of a watercourse and increases the possibility of loss due to the erosion of the land area adjacent to the watercourse.

"FLOODWAY" means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water

surface elevation more than one (1) foot. The floodway is delineated on the Flood Boundary Floodway Map, on maps adopted by the State Reclamation Board when acting within its jurisdiction, and/or on the County Zoning Map (signified by the F-1 Primary Flood Plain Zone).

"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 7-27-1265 of this Chapter pertaining to variances, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Governing Body 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; that 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, damage and suffering that those increased flood damages bring; and that, in addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"GOVERNING BODY" means the Board of Supervisors of the County of Tulare which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"HABITABLE FLOOR" means any floor usable for living purposes, which includes working, sleeping, eating or recreation, or a combination thereof. For flood insurance purposes, "Habitable floor" and "Lowest floor" will share the same definition.

"HARDSHIP" as related to Section 7-27-1265 of this Chapter pertaining to variances means the exceptional hardship that would result from a failure to grant the requested variance. The hardship justifying a variance must be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot as a rule qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"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 the 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 the 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 without 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 accordance with sound engineering practices.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area, including basement (see definition of "Basement"), as follows:

(a) An unfinished or flood resistant enclosure below the lowest floor that is useable 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:

- (1) the wet floodproofing standard in Section 7-27-1180,
- (2) the anchoring standards in Section 7-27-1170,
- (3) the construction materials and methods standards in Section 7-27-1175,

(4) The standards for utilities in Section 7-27-1200.

(b) For residential structures, all the 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 the 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.

"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.

"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.

"MOBILE HOME" is a structure, including a manufactured home certified under the National Mobile Home Construction and Safety Standards Act of 1974, that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers placed on a site for less than 180 consecutive days, or factory-built housing on permanent slab foundation.

"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of this Chapter, 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 this Chapter.

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

"ONE-HUNDRED-YEAR FLOOD" or "100 YEAR FLOOD" has the same meaning as "BASE FLOOD."

"PUBLIC SAFETY AND NUISANCE" as related to Section 7-27-1265 of this Chapter pertaining to variances means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community, neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.

"RECREATIONAL VEHICLE" means a vehicle which is:

- (a) Built on a single chassis,
- (b) Four hundred (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.

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

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

"RIVERINE" means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, or other similar watercourses.

"SHEET FLOW AREA" has the same meaning as "Area of shallow flooding."

"SPECIAL FLOOD HAZARD AREA" is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. The area is designated as Zone A, AO, A1-A30, AE, A99, or AH on the FIRM.

"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 installation of a mobile home to its permanent site. 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.

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

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

"SUBSTANTIAL IMPROVEMENT" means any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a structure taking place during a ten year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. For each building or structure, the ten-year period begins on the date of the first permit issued for improvement or repair of that building or structure subsequent to the "start of construction" of 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 of 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 Chapter which permits construction in a manner that would otherwise be prohibited by this Chapter.

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

7-27-1015 APPLICATION:

This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the County of Tulare.

7-27-1020 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:

The areas of special flood hazard identified by the Federal Insurance Administration, through the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Tulare County, California," dated September 29, 1986, with an accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps, dated September 29, 1986, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the County Public Works Department.

7-27-1021 COORDINATION WITH THE CALIFORNIA BUILDING CODE:

These regulations are intended to be administered and enforced in conjunction with the current edition of the California Building Code (CBC), including all applicable standards referenced therein. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the CBC.

7-27-1025 COMPLIANCE:

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of ~~this Chapter~~these regulations and the CBC, including all standards referenced therein. and other applicable regulations. Violations of the provisions of these regulations by failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Public Works Director from taking such lawful action as is necessary to prevent or remedy any violation.

7-27-1030 ABROGATION AND GREATER RESTRICTIONS:

These regulations supersede any ordinance in effect for management of development in flood hazard area. However, these regulations are ~~This Chapter is~~ not intended to repeal, abrogate, or impair any existing easements, including, but not limited to development regulations, zoning ordinances, stormwater management regulations, or the CBC. These regulations shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, wWhere ~~this Chapter~~these regulations and another chapter, ordinance, easement, covenant, or deed restriction, conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

7-27-1035 INTERPRETATION:

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

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the County of Tulare.
- (3) Deemed neither to limit or repeal any other powers granted under state statutes.

7-27-1040 WARNING AND DISCLAIMER OF LIABILITY:

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man made or natural causes. This Chapter does not imply that land outside the 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 County of Tulare, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result reliant on this Chapter or any administrative decision lawfully made thereunder.

7-27-1041 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.

ARTICLE 3. ADMINISTRATION

7-27-1090 ESTABLISHMENT OF BUILDING PERMIT:

A Building Permit shall be obtained in accordance with Chapter 15 of this Part before construction or development is commenced within any area of special flood hazard established in section 7-27-1020 of this Chapter. In addition to the requirements of Chapter 15, an application for a Building Permit shall be made on forms furnished by the Planning and Development Director and may include, but not be limited to: plans in duplicate 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:

- (a) Site plan, including but not limited to:

- (1) For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site; and
 - (2) Proposed locations of water supply, sanitary sewer, and utilities; and
 - (3) If available, the base flood elevation from the Flood Insurance Study and/or Flood Insurance Rate Map; and
 - (4) If applicable, the location of the regulatory floodway; and
- (b) Foundation design detail, including but not limited to:
- (1) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 - (2) For a crawl-space foundation, location and total net area of foundation openings as required in Section 7-27-1180 of this Chapter and FEMA Technical Bulletins TB1-93 and TB7-93; and
 - (3) For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to 95 percent using the Standard Proctor Test method); and
- (c) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 7-27-1180 of this Chapter and FEMA Technical Bulletin TB 3-93; and
- (d) All appropriate certifications listed in Section 7-27-1180 of this Chapter; and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

7-27-1095 DESIGNATION OF RESPONSIBILITY:

The Planning and Development Director and Public Works Director are hereby appointed as Floodplain Administrators to jointly administer and implement this Chapter by granting or denying building permit applications in accordance with its provisions.

7-27-1100 JOINT DUTIES AND RESPONSIBILITIES:

The joint duties and responsibilities of the Planning and Development Director and Public Works Director shall include, but not be limited to:

(a) Development Review:

- (1) Review of all building permits to determine that the permit requirements of this Chapter have been satisfied.
- (2) Review of all other required state and federal permits have been obtained.
- (3) Review of all permits to determine that the site is reasonably safe from flooding.
- (4) Review of all building permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For purposes of this Chapter, "adversely affected" 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 one (1) foot at any point.
- (5) Review of all proposals for the development of five (5) or more lots or dwelling units to assure that the flood discharge exiting the development after construction is equal to or less than the flood discharge at the location prior to development.

(b) Review Use and Develop Other Base Flood Data:

- (1) When the base flood elevation data has not been provided in accordance with section 7-27-1020 (special flood hazard areas designated as Zone A on the FIRM), the Planning and Development Director and Public Works Director shall obtain, review, and reasonably utilize the best base flood data available from any source (federal, state, or other) such as: high water mark(s), floods of record, or private engineering reports, in order to administer Article 5 of this Chapter and provide the developer with an estimated base flood elevation.
- (2) If no base flood elevation data is available from a federal or state or other source, then a base flood elevation shall be obtained using one of two methods from the FEMA publication "Managing Floodplain Development in Approximate Zone A Areas—A Guide for obtaining and developing Base (100 year) Flood Elevations" dated July 1995 in order to administer Article 5:

- (A) Simplified method.

(i) 100 year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge-drainage area method; and

(ii) Base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or

(B) Detailed method. The 100 year or base flood discharge and the base flood elevation shall be obtained using detailed methods identified in FEMA Publication 265, published in July 1995 and titled: "Managing Floodplain Development in Approximate Zone A Areas—A Guide for obtaining and developing Base (100 year) Flood Elevation."

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

(i) Certification required by Section 7-27-1180 and Section 7-27-1210 (lowest floor elevations).

(D) Map Determinations. Make interpretations, where needed, as to the exact location of the boundaries of the special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 7-27-1315.

(E) Remedial Action. Take action to remedy violation of this Chapter as specified in Section 7-27-1025.

(c) Notification of other agencies:

(1) 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 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.

(3) Changes in corporate boundaries: Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

7-27-1105 DUTIES AND RESPONSIBILITIES OF THE PLANNING AND DEVELOPMENT DIRECTOR:

The duties and responsibilities of the Planning and Development Director shall include, but not be limited to:

(a) Referral and inspection:

(1) Refer all building permits for property located within special flood hazard areas to the Public Works Director for review prior to approval.

(2) Inspect all construction, including installation of mobilehomes, to insure compliance with the requirements of this Chapter.

(b) Information to be Obtained and Maintained: Obtain and maintain for public inspection and make available as needed for flood insurance policies:

- (1) The certified elevation required in section 7-27-1180(a); (residential)
- (2) The certification required in section 7-27-1180(b); (shallow flooding)
- (3) The certification required in section 7-27-1180(c); (Zone A)
- (4) The floodproofing certification required in section 7-27-1180(d); (non residential)
- (5) The certified elevation required in section 7-01-2035; (subdivision) and
- (6) The anchoring and compliance certification required in section 7-27-1210(b) and (d) (mobile-home).

(c) FEMA Reports:

Upon request by the Federal Emergency Management Agency (FEMA), prepare and submit reports to FEMA concerning the County's participation in the National Flood Insurance Program.

7-27-1110 DUTIES AND RESPONSIBILITIES OF THE PUBLIC WORKS DIRECTOR:

The duties and responsibilities of the Public Works Director in his capacity as Engineer to the Tulare County Flood Control District shall include, but not be limited to:

(a) Alteration of Watercourses: Notify adjacent cities and counties and the California Department of Water Resources prior to any alteration or relocation of a watercourse, submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(b) Interpretation of Flood Insurance Rate Map (FIRM) Boundaries: Provide interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards. Where there appears to be a conflict between a mapped boundary and actual field conditions, the applicant may file for a "Letter of Map Amendment" (LOMA) in accordance with the National Flood Insurance Program. The LOMA may be filed with the Public Works Director for transmittal to FEMA in the manner provided by law.

7-27-1115 FLOOD CONTROL MASTER PLAN:

The Board of Supervisors, Planning Commission, Site Plan Review Committee and Zoning Administrator shall weigh all requests for future floodplain development against the Flood

Control Master Plan of the Tulare County Control District. Consideration of the following elements are required before approval:

- (1) Determination of whether or not a proposed development is in or affects a known flood plain.
- (2) Inform the public of the proposed activity.
- (3) Determine if there is a practicable alternative or site for the proposed activity.
- (4) Identify the impact of the activity on the flood plain.
- (5) Provide a plan to mitigate the impact of the activity in accordance with the provisions in section 7-27-1100(a)(4).

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

7-27-1165 STANDARDS OF CONSTRUCTION:

In all areas of special flood hazard shown on the FIRM, the standards set forth in this Article shall be required.

7-27-1170 ANCHORING:

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All mobilehomes shall meet the anchoring standards of section 7-27-1210(a).

7-27-1175 CONSTRUCTION MATERIALS AND METHODS:

- (a) All new construction and substantial improvements shall be constructed with flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage.
- (b) All new construction and substantial improvement shall use methods and practices that minimize flood damage.
- (c) All elements that function as a part of the structure, such as furnace, hot water heater, air conditioner, etc., shall be elevated to or above the base flood elevation or depth number specified on the Flood Insurance Rate Map (FIRM).

(d) If within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

7-27-1180 ELEVATION AND FLOODPROOFING:

(a) New construction and substantial improvement of any structure shall conform to the CBC and ASCE 24 as referenced herein shall have the bottom of the lowest floor, including basement, elevated in accordance with the minimum elevation requirements found in Chapter 2 and ASCE 24. to or above the base flood elevation. Nonresidential structures may meet the optional standards in paragraph (d) of this Section. Prior to issuance of the occupancy permit or certificate, the elevation of the lowest floor, including the basement, shall be certified by a registered civil engineer or land surveyor that the elevation requirements have been met and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b).

(b) New construction and substantial improvement of any structure in Zone AO shall have the bottom of the lowest floor, including basement, elevated to or above the depth number specified on the Flood Insurance Rate Map (FIRM) as measured from the highest adjacent grade. Nonresidential structures may meet the optional standards in paragraph (d) of this Section. Prior to issuing the occupancy permit, compliance with the elevation requirement shall be certified by a registered civil engineer or land surveyor and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b).

(c) If no base flood elevation or depth number is provided on the FIRM (Zone A), any new construction or substantial improvement of any structure shall have the bottom of the lowest floor, including basement, elevated to:

(1) Said base flood elevation shall be determined by one of the methods in Section 7-27-1100 (b); or

(2) If the Planning and Development Director and Public Works Director determine that it is unreasonable to determine the base flood elevation pursuant to Section 7-27-1100(b) then the Planning and Development Director and Public Works Director may require that any new construction or substantial improvement of any structures defined in ASCE 24 shall have the bottom of the lowest floor, including basement, elevated to: a height of at least two feet above the highest adjacent grade or DFE, whichever is higher, found in Chapter 2 of ASCE 24.

~~(A) — A height of at least two feet above the highest adjacent grade, or~~

~~(B) Eighteen (18) inches above the top of the curb across the front of the lot.~~

Nonresidential structures may meet the optional standards set forth in paragraph (d) of this section. Prior to issuing the occupancy permit, compliance with the elevation requirement shall be certified by a registered civil engineer or land surveyor, and verified by the County Surveyor. Notification of compliance shall be recorded as set forth in Section 7-27-1105(b).

(d) Nonresidential structures with the lowest floor (including basement) below the minimum elevation specified in ASCE 24 Chapter 2 and nonresidential portions of mixed-use structures with the lowest floor (including basement) below the minimum elevation specified by Chapter 2 shall be allowed in conformance with the dry floodproofing requirements of ASCE 24 Section 6.2

The elevation of the lowest floor (including basement), shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the County Surveyor at the following stages of development:

- (1) During review of construction drawings. Submit a county approved preliminary elevation certificate prior to building permit issuance.
- (2) During building construction, once the building pad has been developed or the foundation forms have been erected.
- (3) After construction is completed. An elevation certificate will be required prior to the release of the building occupancy permit.

~~_construction shall either be elevated in conformance with paragraph (a), (b) or (c) of this section or together with attendant utility and sanitary facilities, be floodproofed to the base flood elevation by one or more of the following:~~

- ~~(1) Installation of watertight doors, bulkheads, and shutters.~~
- ~~(2) Reinforcement of walls to resist water pressure.~~
- ~~(3) Use of paints, membrane, or mortars to reduce seepage through walls.~~
- ~~(4) Addition of mass or weight to structure to resist flotation.~~
- ~~(5) Armour protection of all fill materials from scour and/or erosion.~~

~~Certification by a registered civil engineer or architect that the standards of this paragraph are satisfied shall be provided to the Planning and Development Director as set forth in section 7-27-1105(b).~~

(e) Flood openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access 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 1-93 and TB 7-93, and must meet the following minimum criteria:

- (1) For non-engineered openings:
 - (A) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (B) The bottom of all openings shall be no higher than one foot above grade;
 - (C) Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of flood water; and
 - (D) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
- (2) Be certified by a registered civil engineer or architect.

7-27-1185 STANDARDS FOR ELEVATION CERTIFICATES:

(a) Certification of the elevation of the lowest floor or floodproofed elevation is required at that point where the footings are set and slab poured. Failure to submit an elevation certification shall be cause to issue a stop-work order for the project. As built plans certifying the elevation of the lowest adjacent grades is also required.

(b) Except within zones A and AO, the benches that are shown on the FIRM shall be used in calculating the elevation of the lowest floor.

(c) If fill is used to elevate a structure above the base flood elevation, the permit holder may apply for a Letter of Map Amendment (LOMA), as set forth in section 7-27-1110(b).

7-27-1190 STANDARDS FOR ALLUVIAL FANS:

Areas subject to alluvial fan flooding have irregular flow paths that result in erosion of existing channels and the undermining of fill material. Those areas are identified on the Flood Insurance Rate Map (FIRM) as AO Zones with velocities.

- (a) All structures must be securely anchored to minimize the impact of the flood and sediment damage.
- (b) All new construction and substantial improvements must be elevated on pilings, columns, or armoured fill so that the bottom lowest floor beam is elevated at or above the depth number.
- (c) Use of all fill materials must be armoured to protect the material from the velocity of the flood flow.
- (d) All proposals for subdivision development must provide a mitigation plan that identifies the engineering methods used to:
 - (1) Protect structures from erosion and scour caused by the velocity of the flood flow.
 - (2) Capture or transport flood and sediment flow through the subdivision to a safe point of disposition.
- (e) All mobilehomes shall be prohibited within the identified hazard area except within existing mobilehome parks or subdivisions.

7-27-1195 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 materials 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.

7-27-1200 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.

7-27-1205 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).
- (2) Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
- (3) If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - (A) Lowest floor elevation.
 - (B) Pad elevation.
 - (C) Lowest adjacent grade.

(b) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

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

(d) All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

7-27-1210 STANDARDS FOR MOBILEHOMES AND MOBILEHOME PARKS AND SUBDIVISIONS:

(a) All new mobilehomes and additions to mobilehomes shall be anchored to resist flotation, collapse, or lateral movement by at least one of the following methods:

- (1) By providing an anchoring system designed to withstand horizontal forces of 15 pounds per square foot and uplift forces of 9 pounds per square foot; or
- (2) By the anchoring of the unit's system, designed to be in compliance to the Department of Housing and Urban Development Mobilehome 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.

As set forth in section 7-27-1105(b), certification meeting the standards above is required of the installer or state agency responsible for regulating the placement, installation, and anchoring of individual mobilehome units.

(b) The following standards shall be required for mobilehomes not placed in mobilehome parks or subdivisions, new mobilehome parks or subdivisions, expansions to existing mobilehome parks or subdivisions, and repair, reconstruction, or improvements to existing mobilehome parks or subdivisions that equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, reconstruction or improvement commences:

- (1) Adequate surface drainage and access for a hauler shall be provided.
- (2) All mobilehomes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the mobilehome is at or above the base flood level. If elevated on pilings:
 - (i) The lots shall be large enough to permit steps.
 - (ii) The pilings shall be placed in stable soil no more than ten (10) feet apart.
 - (iii) Reinforcement shall be provided for pilings more than six (6) feet above ground level.

(c) Certification of compliance is required of the developer responsible for the plan or state agency responsible for regulating mobilehome placement.

(d) 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

community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

7-27-1211 STANDARDS FOR RECREATIONAL VEHICLES:

All recreational vehicles placed on sites within Zones A1-30, 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 sit only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
- (b) Meet the permit requirements of Article 3 of this Chapter and the elevation and anchoring requirements for manufactured homes in Section 7-27-1210.

7-27-1215 FLOODWAYS:

Areas designated as floodways are located within areas of special flood hazard established in section 7-27-1020. Since the floodway is an extremely hazardous area due to the flood velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1–30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point.
- (c) No mobilehome shall be placed in a floodway, except in an existing mobilehome park or existing mobilehome subdivision.
- (d) The requirements of section 14.7 of the County Zoning Ordinance (Ordinance No. 352 as amended) shall also be applicable at such time that the County Zoning Map is amended to apply F I zoning within the floodway.

ARTICLE 7. VARIANCES

7-27-1265 VARIANCES: AUTHORITY TO ACT:

If practical difficulties, unnecessary hardships or results inconsistent with the general purpose of this Chapter result through the strict interpretation and enforcement of this Chapter, then the Zoning Administrator shall have the authority to grant a variance from the provisions of this Chapter such as may be in harmony with its general purpose and intent, so that the spirit of this Chapter shall be observed, public safety and welfare served and substantial justice done.

7-27-1270 APPLICATIONS FOR VARIANCES: FEES:

(a) The Zoning Administrator shall grant a variance under the provisions of this Article only upon the filing of a written application therefore by the owner of the real property affected or his or her authorized agent. The Resources Management Agency Director shall prescribe the form of application for such variances.

(b) Unless otherwise provided, the Board of Supervisors shall adopt, from time to time by resolution, a schedule of fees to be paid by applicants with each application for a variance to defray the expenses incidental to the proceedings. No part of said fee shall be returned to the applicant if he or she subsequently withdraws the application, except in accordance with Section 130 of this Ordinance Code.

(c) An additional fee in the amount of Ten Dollars (\$10.00) shall be collected for each variance application to defray the expenses incidental to maintaining and enhancing the automated permit processing equipment and software utilized in the Planning and Development Department for processing of planning and building permits and certificates.

(d) Unless otherwise provided herein, whenever there is a joint filing of multiple applications and the applicant consents to the consolidated processing of those applications, the applicable filing fees shall be reduced by twenty-five percent (25%). As used here in, the term "multiple applications" shall consist of two (2) or more applications for changes of zone, special use permits (including amendments thereto), variances, planned unit developments and planned developments, tentative subdivision maps, tentative parcel maps (including vesting maps), building line setback variances, flood variances, and surface mining permits and reclamation plans (including amendments thereto) which pertain to the same project.

7-27-1275 PROCEDURE FOR PROCESSING VARIANCES:

(a) Before acting on a variance the Zoning Administrator shall hold at least one (1) public hearing. Notice of such public hearing shall be given by publishing a notice of such hearing

setting forth the time and place of the hearing and the nature of the variance requested, in a newspaper of general circulation published in the County, once, not less than ten (10) days prior to the date of such public hearing, and by mailing a copy of the notice of said hearing, not less than ten (10) days prior to the date of such public hearing, to the following persons or agencies:

- (1) The applicant.
- (2) County Flood Control Engineer.
- (3) County Public Works Director.
- (4) Supervisor of the Supervisorial District in which the property is located.
- (5) State Reclamation Board.
- (6) All owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property which is the subject of the variance.

(b) The decision of the Zoning Administrator shall be in writing and shall include findings of facts relied on in making the decision.

(c) A copy of the decision of the Zoning Administrator shall be publicly posted at or near the door of the Planning and Development Department for a period of one (1) week following the making thereof. Not more than two (2) days after making the decision on the application, the Zoning Administrator shall cause a copy of the decision to be mailed to the applicant, to the Board of Supervisors, and to any other person who has expressed an interest therein and has deposited with the Zoning Administrator a self addressed, stamped envelope for that purpose. Failure to mail or to receive such notice, as a result of mistake or inadvertence, shall not affect the validity of the decision.

7-27-1280 VARIANCES: FACTORS TO CONSIDER:

(a) In passing upon such applications, the Zoning Administrator shall consider all technical evaluations and all relevant factors and standards specified in 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 County.
 - (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 County General Plan and the 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 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 systems, and streets and bridges.
- (b) Any applicant to whom a variance is granted shall be given written notice over the signature of the Zoning Administrator that:
- (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$24 for \$100 of insurance coverage; and
 - (2) Such construction below the base flood level increases risks to life and property.

7-27-1285 VARIANCES: PRIOR CONSENT:

No variance which is subject to the provisions of section 8414.2 of the California Water Code shall be approved without the prior written consent of the Department of Water Resources or State Reclamation Board and of the Engineer for the County Flood Control District.

7-27-1290 VARIANCES: LOT SIZE CONSIDERATIONS:

Generally, variances may be approved 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, provided the factors set forth in section 7-27-

1280 have been fully considered. As the lot size increases beyond one half acre, the technical justification required for issuing the variance increases.

7-27-1295 VARIANCES: AUTHORITY TO IMPOSE CONDITIONS:

Upon consideration of the factors set forth in section 7-27-1280 and the purposes of this Chapter, the Zoning Administrator may attach such conditions to the granting of variances as he or she deems necessary to further the purpose of this Chapter.

7-27-1300 VARIANCES: CONDITIONS:

(a) Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(b) Variances shall not be granted within any floodway if any increase in flood levels during the base flood discharge would result.

(c) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be granted upon:

(1) A showing of good and sufficient cause such as renovation, rehabilitation, or reconstruction. Variances for reasons of economic considerations, aesthetics, or because variances have been used in past shall not be considered good and sufficient cause.

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.

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

(e) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest flood 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.

7-27-1305 USE PERMIT:

Notwithstanding the provisions of section 7-27-1265, no variance shall be required under this Article if the proposed construction or substantial improvements have been approved in accordance with the use permit requirements set forth in section 14.7 of the County Zoning Ordinance (Ordinance No. 352, as amended).

7-27-1310 REVOCATIONS:

Any variance which is granted subject to conditions may be revoked by the Zoning Administrator if any of the conditions are violated. The same procedures shall be followed for revocation of a variance as are followed for granting a variance, including the appeal procedures, except that notice of the public hearing by the Zoning Administrator on revocation need not be published in a newspaper.

7-27-1315 APPEALS:

(a) Except as herein provided, all appeals regarding decisions on variances shall be subject to the provisions of section 165 of this Ordinance Code.

(b) Any person adversely affected by a decision of the Zoning Administrator on the variance may appeal the decision to the Board of Supervisors. An appeal to the Board of Supervisors shall be in writing and filed with the Clerk of the Board of Supervisors within ten (10) days after the date on which the decision of the Zoning Administrator was made. An appeal shall specifically set forth the grounds for the appeal. In addition to the notice requirement of section 165 of this Ordinance Code, the Board shall give notice of the appeal hearing to the persons and agencies named in section 7-27-1275 of this Article for giving notice by the Zoning Administrator.

(c) At the time of filing the appeal, the appellant shall pay a fee of One Hundred and Fifty Dollars (\$150) to the Planning and Development Director to defray the expenses incidental to the proceedings.

7-27-1320 RECORDS:

The Planning and Development Director as Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance and any appeal actions, and report any variances issued in its biennial report submitted to the Federal Insurance Administration of the Federal Emergency Management Agency.

ARTICLE 9. NUISANCE, VIOLATIONS

7-27-1370 NUISANCE:

Any building, structure, substantial improvement, or other installation which is subject to this Chapter and which is not in full compliance with the requirements of this Chapter shall constitute a public nuisance.

7-27-1375 VIOLATIONS:

Any person violating any of the provisions of this Chapter which are declared to be unlawful shall be guilty of an infraction and shall be punishable as provided in section 125 of this Ordinance Code. Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable therefore as provided hereinabove.

Attachment B

Ordinance Amendment Summaries Pertaining to Flood Damage Prevention

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124(b)(1), THE FOLLOWING IS A SUMMARY OF AN ORDINANCE ADDING SECTION 7-27-1021 TO AND AMENDING SECTIONS 7-27-1010, 7-27-1025, 7-27-1030, AND 7-27-1180 OF CHAPTER 27 OF PART VII OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO FLOOD DAMAGE PREVENTION.

SUMMARY OF ORDINANCE

This Ordinance amends the previous Flood Damage Prevention Ordinance in accordance with updates to the National Flood Insurance Program. The recommended ordinance includes minor and clarifying changes in definition, limitation, and procedures regarding development and building permitting requirements.

In Section 7-27-1010 Definitions, the definition of "Substantial Improvement" was updated. Certain definitions were added and changed as part of Section 7-27-1010, including the definitions for "Substantial Improvement", "ASCE 24", "California Building Code (CBC)", and "Design Flood Elevation (DFE)".

A new section, 7-27-1021 Coordination with the California Building Code, is to be added which states that the ordinance is intended to be enforced in conjunction with the current edition of the California Building Code (CBC).

Section 7-27-1025 Compliance is amended to also require compliance with the California Building Code and provides that violations of the provision constitute a misdemeanor. It also allows the Public Works Director to take such lawful actions as necessary to prevent or remedy any violation.

Section 7-27-1030 Abrogation and Greater Restrictions is amended to expand the ordinances and other regulations that this ordinance is not intended to repeal, abrogate or impair. It continues to require that stricter of this and any other such ordinance or regulation shall prevail in the event of a conflict or overlap.

Section 7-27-1180 Elevation and Floodproofing is to be amended to require that new construction and substantial improvement of any structure must comply with the CBC and ASCE 24, a reference standard for flood resistant design and construction. It is also updated to provide for design standards for nonresidential structures where the lowest floor including the basement is below the minimum elevation specified by Chapter 2 of ASCE 24 and requires certification of such by a registered civil engineer or licensed land surveyor during various stages of development.

The ordinance herein summarized will be considered for second reading by the Tulare County Board of Supervisors on _____, 20__, at a regular meeting of said Board. At least five (5) days prior to that date, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

ATTEST: MICHAEL C. SPATA
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124(b)(1), THE FOLLOWING IS A SUMMARY OF AN ORDINANCE ADDING SECTION 7-27-1021 TO AND AMENDING SECTIONS 7-27-1010, 7-27-1025, 7-27-1030, AND 7-27-1180 OF CHAPTER 27 OF PART VII OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO FLOOD DAMAGE PREVENTION.

SUMMARY OF ORDINANCE

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The ordinance herein summarized was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ___ **day of** _____, **2018**, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: MICHAEL C. SPATA
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Attachment C

Proposed Notice of Exemption

Notice of Exemption

Fee Exempt per Government Code Section 6103

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Tulare County Clerk
Room 105, Courthouse
221 South Mooney Boulevard
Visalia, California 93291

<i>Dated received for filing at the County Clerk</i>

Lead Agency: County of Tulare Resource Management Agency
5961 South Mooney Blvd.
Visalia, CA 93277
Ph: (559) 624-7000

Applicant: Tulare County Board of Supervisors
2800 W Burrell Ave.
Visalia, CA 93291
Ph: (559) 636-5005

Project Title: Ordinance update amending Chapter 27 of Part VII of the Ordinance Code of Tulare County pertaining to Flood Damage Prevention

Project Location - Specific: N/A, throughout all the unincorporated areas of the County of Tulare, CA

Project Location – General: Throughout all the unincorporated areas of the County of Tulare, CA

Project Location City: N/A

Project Location County: Tulare

Description of Nature, Purpose, and Beneficiaries of Project: As part of its administration of the National Flood Insurance Program (NFIP), the County of Tulare is updating Chapter 27 of Part VII of the Ordinance Code of Tulare County pertaining to Flood Damage Prevention. The recommended ordinance includes minor and clarifying changes in definitions, limitation, and procedures regarding development and building permitting requirements and are intended to keep the County’s NFIP standards in conformance with that required by the Federal Emergency Management Agency and the California Department of Water Resources.

In Section 7-27-1010 Definitions, the definition of “Substantial Improvement” was updated. Certain definitions were added and changed as part of Section 7-27-1010, including the definitions for “Substantial Improvement”, “ASCE 24”, “California Building Code (CBC)”, and “Design Flood Elevation (DFE)”.

A new section, 7-27-1021 Coordination with the California Building Code, is to be added which states that the ordinance is intended to be enforced in conjunction with the current edition of the California Building Code (CBC).

Section 7-27-1025 Compliance, is amended to also require compliance with the CBC and provides that violations of the provision constitute a misdemeanor. It also allows the Public Works Director to take such lawful actions as necessary to prevent or remedy any violation.

Section 7-27-1030 Abrogation and Greater Restrictions, is amended to expand the ordinances and other regulations that this ordinance is not intended to repeal, abrogate or impair. It continues to require that the stricter of this and any other such ordinance or regulation shall prevail in the event of a conflict or overlap.

Section 7-27-1180 Elevation and Floodproofing, is to be amended to require that new construction and substantial improvement of any structure must comply with the CBC and ASCE 24, a reference standard for flood resistant design and construction. It is also updated to provide for design standards for nonresidential structures where the lowest floor including the basement is below the minimum elevation specified by Chapter 2 of ASCE 24 and requires certification of such by a registered civil engineer or licensed land surveyor during various stages of development.

The proposed changes are intended to promote the health, safety, and general welfare of the residents of the County of Tulare; to protect the environment, and to prevent or limit the impact of flood damage to new construction or substantial improvements.

Excluded / Exempt Status:

Ministerial (Sec. 21080(b)(1); 15268)

General Rule: **CEQA guidelines 15061(b)(3)**

Categorical Exemption: **CEQA Guidelines 14 Cal. Code Regs. § 15308 (Class 8) Actions by Regulatory Agency for Protection of the Environment**

Statutory Exemptions:

Reasons why project is excluded/exempt: The proposed project is exempt from CEQA under both the General Rule exemption and under the Class 8 – Actions by Regulatory Agency for Protection of the Environment exemption.

CEQA Guidelines Section 15061(b)(3) sets forth the general rule exemption, which provides that CEQA only applies to projects which “have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” With respect to the General Exemption, it can be seen with certainty that there is no possibility that the activity in question (i.e., adoption of the ordinance amendments) may have a significant effect on the environment. These ordinance amendments are designed to maintain the status quo in the unincorporated areas of the County with respect to requirements for flood damage prevention for new construction and substantial improvements while reflecting that other laws, rules, or regulations such as the California Building Code may provide stricter restrictions on such development. Thus, the adoption of the ordinance amendments does not permit any new physical construction or other physical activity that was not previously permitted under the County’s ordinances. The action therefore will not have the potential to result in individual or cumulative significant effects on the environment. Furthermore, no special circumstances exist that would create a reasonable possibility that approving the ordinance amendments would have a significant effect on the environment. Thus, adoption of the proposed ordinance amendments is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

The Class 8 CEQA Exemption also applies to the proposed ordinance amendments. Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The NFIP was implemented and is administered in part to protect people and property from flood damage. These updates to the Flood Damage Prevention Ordinance are intended to ensure that the County’s administration of the NFIP continues to meet this goal.

Therefore, the use of Sections 15061(b)(3) and 15308 are applicable and appropriate for this project.

Name of Public Agency Approving Project: County of Tulare Board of Supervisors

Project Planner/Representative: Ross Miller, P.E., Chief Engineer **Telephone:** 559-624-7070

Signature: _____ Date: _____ Title: Chief Environmental Planner
Hector Guerra (559) 624-7121

Signature: _____ Date: _____ Title: Director and Environmental Assessment Officer
Reed Schenke (559) 624-7000

- Signed by Lead Agency
- Signed by Applicant