



**REPORT TO CITY COUNCIL**

**DATE:** AUGUST 23, 2017

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** GREG RAMIREZ, CITY MANAGER 

**BY:** RAMIRO ADEVA, PUBLIC WORKS DIRECTOR/CITY ENGINEER 

**SUBJECT:** ADOPTION OF ORDINANCE NO. 17-430; UPDATING THE CITY OF AGOURA HILL'S FLOODPLAIN MANAGEMENT ORDINANCE INTO COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM REQUIREMENTS AND AMENDING SELECTED SECTIONS OF CHAPTER 7 OF ARTICLE III, OF THE AGOURA HILLS MUNICIPAL CODE

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At the August 9, 2017 City Council meeting, on a 5-0 vote, the City Council introduced, read by title only, and waived further reading of Ordinance No. 17-430.

The Ordinance would authorize updating the City's floodplain management regulations, while amending select sections of Chapter 7 of Article III of the Agoura Hills Municipal Code.

Attached for reference is a copy of Ordinance No. 17-430.

**RECOMMENDATION**

Staff respectfully recommends the City Council adopt Ordinance No. 17-430.

Attachment: Ordinance No. 17-430

**ORDINANCE NO. 17-430**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING CHAPTER 7 OF ARTICLE III OF THE AGOURA HILLS MUNICIPAL CODE REGARDING FLOODPLAIN MANAGEMENT AND MAKING A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY ORDAINS AS FOLLOWS:**

**Section 1.** Pursuant to the California Environmental Quality Act (“CEQA”), as amended, the CEQA Guidelines, and the City’s local CEQA Guidelines, City staff for the City of Agoura Hills determined that the proposed Ordinance to amend Chapter 7 (Floodplain Management) of Article III (Public Safety) of the Agoura Hills Municipal Code has no possibility of causing a significant impact on the environment. Staff concludes that the proposed Ordinance is exempt from the application of CEQA pursuant to CEQA Guidelines Section 15061(b)(3), in that the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. This finding is premised on the fact that the regulations adopted herein protect against detrimental impacts on the environment by minimizing the impacts of flood damage and instituting effective floodplain management. The City Council concurs with City staff’s determination and therefore directs staff to prepare and file a Notice of Exemption with the County Clerk, pursuant to CEQA Guidelines Section 15062, within five days of the date of this action.

**Section 2.** Chapter 7 (Floodplain Management) of Article III (Public Safety) of the Agoura Hills Municipal Code is hereby amended in its entirety to read as follows:

**“Chapter 7. FLOODPLAIN MANAGEMENT**

- 3700. INTENT**
- 3701. SCOPE**
- 3702. PURPOSES**
- 3703. DEFINITIONS**
- 3704. GENERAL PROVISIONS**
- 3705. DEVELOPMENT PERMIT REQUIRED**
- 3706. DUTIES OF THE FLOODPLAIN ADMINISTRATOR**

**3707. PROVISIONS FOR FLOOD HAZARD REDUCTION**

**3708. EXCEPTIONS**

**3700. INTENT:**

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. The flood hazard areas of the City of Agoura Hills are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and welfare. These flood losses are often caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored damage uses in other areas. Therefore, it is the intent of this chapter to promote the public health, safety and welfare and to minimize public and private losses due to flood conditions in specific areas.

**3701. SCOPE:**

This chapter shall apply to all special flood hazard areas within the jurisdiction of the City of Agoura Hills. The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study for the City of Agoura Hills" dated March 4, 1986, revised December 18, 1986, with an accompanying flood insurance rate map, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This flood insurance study is on file at the Agoura Hills City Hall. This flood insurance study is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended by the floodplain administrator.

**3702. PURPOSES:**

The purposes of this chapter include the following:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects, and to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (c) To minimize prolonged business interruptions;
- (d) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in special flood hazard areas;
- (e) To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;

- (f) To ensure that potential buyers are notified that property is in a special flood hazard area and to ensure that those who occupy the special flood hazard areas assume responsibility for their actions;
- (g) To restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- (h) To require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (i) To control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (j) To control filling, grading, dredging, and other development which may increase flood damage; and
- (k) To prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

**3703. DEFINITIONS:**

As used in this chapter, the terms set forth below shall have the following meaning:

- (a) *Area of shallow flooding* means an area designated as an AO or AH Zone on the flood insurance rate map (FIRM) in which area the base flood depths range from one (1) to three (3) feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and from which the velocity flow may be evident.
- (b) *Base flood* means the flood having a one (1) percent chance of being equalled or exceeded in any given year (also called the "100-year flood").
- (c) *Basement* means any area of a building having its floor subgrade (below ground level) on all sides.
- (d) *Breakaway walls* are any type 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 a building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:
  - (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - (2) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

- (e) *Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- (f) *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 February 24, 1988.
- (g) *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).
- (h) *Flood* or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of floodwaters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event.
- (i) *Flood boundary and floodway map* means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.
- (j) *Flood insurance rate map (FIRM)* means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the special flood hazard areas and the risk premium zones applicable to the community.
- (k) *Flood insurance study* means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the flood boundary and the floodway map, and the water surface elevation of the base flood.
- (l) *Floodplain* or *flood-prone area* means any land area susceptible to being inundated by water from any source, including flooding.
- (m) *Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

- (n) *Floodplain management regulations* means state or local regulations which provide standards for the purpose of flood damage prevention and reduction, including but not limited to zoning ordinances, subdivision regulations, building codes, health regulations, floodplain ordinances, grading ordinances and erosion control ordinances.
- (o) *Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (p) *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 (1) foot. Also referred to as "regulatory floodway".
- (q) *Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- (r) *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (s) *Lowest floor* means the lowest floor of the lowest enclosed area on property, including a basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor if such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.
- (t) *Manufactured home* means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days.
- (u) *Manufactured home park or subdivision* means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for sale or rent.
- (v) *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.
- (w) *New construction* means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Agoura Hills.

- (x) *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 the final site grading or the pouring of concrete pads) is completed on or after February 24, 1988.
- (y) *One hundred year flood or 100-year flood* means a flood which has a one (1) percent annual probability of being equalled or exceeded. It is identical to the "base flood".
- (z) *Recreational vehicle* means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection; (3) designed to be self-propelled or permanently towable by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (aa) *Special flood hazard area (SFHA)* means an area having special flood or flood-related erosion hazards, and shown on a FIRM as Zone A, A1-30, AE, A999 or AH.
- (bb) *Start of construction* means the date a building permit is issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structures.
- (cc) *Structure* means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, including manufactured homes.
- (dd) *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (ee) *Substantial improvement* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
  - (1) Before the improvement or repair is started; or
  - (2) If the structure has been damaged, and is being restored, before the damage occurred.

Substantial improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, include: any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are necessary to assure safe living conditions; nor any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

- (ff) *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 that documentation is provided.
- (gg) *Watercourse* means any natural or man-made channel through which water flows.

**3704. GENERAL PROVISIONS:**

- (a) *Compliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. A structure or other development for which an elevation certificate, other required certification, or other evidence of compliance required in this chapter, is not presented to the city is presumed to be in violation until such documentation is provided to the city. Nothing herein shall prevent the City of Agoura Hills from taking such lawful action as is necessary to prevent or remedy any violation.
- (b) *Applicability.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Notwithstanding the foregoing, where this chapter and another provision of law, easement, covenant, or deed restriction conflict or overlap, the most restrictive provisions shall prevail.
- (c) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.
- (d) *Designation of the floodplain administrator.* The city engineer shall have the duty to administer, implement, and enforce the provisions of this chapter as the floodplain administrator.
- (e) *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 special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Agoura Hills, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

- (f) *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.

**3705. DEVELOPMENT PERMIT REQUIRED:**

A development permit shall be obtained before construction or development, including construction of manufactured homes, begins within any special flood hazard areas. Application for a development permit shall be made on forms furnished by the floodplain administrator and the information provided shall include, but not be limited to the following:

- (a) Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question and location of existing or proposed structures, fill, storage of materials, drainage facilities, existing and proposed locations of water lines, sanitary sewer and other utilities, and location of the regulatory floodway (when applicable)
- (b) Base flood elevation information as specified in section 3706(d);
- (c) Proposed elevation in relation to mean sea level, of the lowest floor of all structures;
- (d) Proposed elevation in relation to mean sea level to which any structure will be floodproofed;
- (e) All appropriate certifications listed in section 3706(f); and
- (f) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**3706. DUTIES OF THE FLOODPLAIN ADMINISTRATOR:**

The duties and responsibilities of the floodplain administrator shall include but not be limited to the following:

- (a) Issue or deny development permits consistent with the provisions of this chapter.
- (b) Review all applications and development permits to determine whether:
  - (1) The requirements of this chapter have been satisfied;
  - (2) All other required state and federal permits have been obtained;

- (3) The site is reasonably safe from flooding; and
  - (4) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined, but the floodway has not been designated. For purposes of this section, "adversely affect" 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 within the City.
  - (5) All letters of map revision, if necessary, for flood control projects are approved prior to the issuance of building permits.
- (c) Using applicable Federal Emergency Management Authority guidance, develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining market value. Assure procedures are coordinated with other departments/divisions and implemented by community staff.
  - (d) Use other base flood data if appropriate in order to administer section 3707. If base flood elevation data is not provided in accordance with section 3704, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer section 3707. Any such information shall be submitted to the city council for adoption.
  - (e) Take the following steps when a watercourse is to be altered or relocated:
    - (1) Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
    - (2) Require that the flood-carrying capacity of the altered or relocated portion of said watercourse is maintained.
  - (f) Obtain and maintain for public inspection the following:
    - (1) The certification required in section 3707(a)(3)a. (floor elevations);
    - (2) The certification required in section 3707(a)(3)b.iii. (elevation or floodproofing of nonresidential structures);
    - (3) The certification required in section 3707(a)(3)c. (wet floodproofing standard);
    - (4) The certified elevation required in section 3707(c)(2) (subdivision standards);
    - (5) The certification required in section 3707(e)(1) (floodway encroachments);
  - (g) Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person

contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 3708.

- (h) Enforce the provisions of this chapter by requiring that property comply with applicable floodplain management regulations.
- (i) When base flood elevations change due to physical alterations, the floodplain administrator shall, within 6 months of information becoming available or project completion, whichever comes first, submit or assure that the permit applicant submits technical or scientific data to the Federal Emergency Management Authority for a letter of map revision. Submission of information 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. Building permits will not be issued based on conditional letters of map revisions. Approved conditional letters of map revisions allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.
- (j) Notify the Federal Emergency Management Authority in writing whenever the city's geographic limits have been modified by annexation or other means and include a copy of a map clearly delineating the new geographic limits.

**3707. PROVISIONS FOR FLOOD HAZARD REDUCTION:**

- (a) *Standards for construction.* In all special flood hazard areas the following standards are required:
  - (1) Anchoring:
    - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
    - b. All manufactured homes shall meet the anchoring standards of section 3707(d).
  - (2) Construction materials and methods:
    - a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
    - b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
    - c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed

and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Elevation and floodproofing:

- a. New construction and substantial improvement of any structure shall have the lowest floor elevated to or above the base flood elevation. Upon the completion of the structure, the elevation of the lowest floor shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.
- b. Nonresidential construction shall either be elevated in conformance with section 3707(a)(3)a. or, including attendant utility and sanitary facilities, must meet the following standards:
  - (i) Be floodproofed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water;
  - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (iii) Provide certification from a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator.
- c. For all new construction and substantial improvements, it is required that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - (i) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or
  - (ii) Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration.
- d. Manufactured homes shall also meet the standards in section 3707(d).

- (4) Construction below lowest floor: The space below the lowest floor of a structure located in an SFHA may be used only for parking, temporary storage, or access.
- (b) *Standards for utilities.*
- (1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.
  - (2) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (c) *Standards for subdivisions.*
- (1) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
  - (2) All final subdivision plans shall provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.
  - (3) All subdivision proposals shall be consistent with the need to minimize flood damage.
  - (4) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
  - (5) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.
- (d) *Standards for manufactured homes.* All new and replacement manufactured homes and additions to manufactured homes shall:
- (1) Be elevated so that the lowest floor is at or above the base flood elevation; and
  - (2) Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement.
- (e) *Standards for floodways.* The following standards shall apply to floodways:
- (1) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. If no floodway sources are designated, the registered professional engineer or architect shall demonstrate that the cumulative effect of all encroachment in the floodplain does not increase the base flood elevation (BFE) by more than one (1) foot.

- (2) If section 3707(e)(1) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of section 3707.

**3708. EXCEPTIONS:**

- (a) *Appeal of floodplain administrator decision and exceptions.* The city council shall hear and decide appeals from the decision of the floodplain administrator and requests for exception from the requirements of this chapter. Within fifteen (15) days of the decision of the floodplain administrator, a person may appeal such decision to the city council or apply for an exception from the requirements of this chapter by filing an application with the floodplain administrator.
- (b) *Review by city council.* In ruling on an application for an exception or an appeal, the city council shall consider all technical evaluations, all standards specified in other sections of this chapter, and other relevant factors including the following:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
  - (9) The provision of access to the property during a flood for emergency and other vehicles;
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- (c) *Grounds for granting exceptions.*
  - (1) Exceptions may be granted for the reconstruction, rehabilitation or restoration of structures listed in the National Register of Historic Places or

the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the exception is the minimum necessary to preserve the historic character and design of the structure.

- (2) Exceptions shall not be granted within any designated floodway if any increase in flood levels during the base flood discharge would result.
  - (3) Generally, exceptions may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half acre, the technical justification required for issuing the exception increases.
  - (4) The city council shall make the following findings before granting an exception:
    - a. That there is a showing of good and sufficient cause for such exception;
    - b. That failure to grant the exception would result in exceptional hardship to the applicant; and
    - c. That the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of a nuisance, or conflict with existing local laws.
    - d. The exception is the minimum necessary considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter.
  - (5) Exceptions may be issued for new construction and substantial improvements and for other development necessary to conduct a functionally dependent use provided that the provisions of section 3708(b) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
  - (6) Any applicant to whom an exception is granted shall be given written notice that the structure or other development will be permitted to be built with a lowest floor elevation below the regulatory flood elevation, will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, commensurate with the increased risk resulting from the reduced lowest floor elevation, and such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded in the office of the Los Angeles County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (d) Upon consideration of the factors in section 3708(b) and the purposes of this chapter, the city council may attach such conditions to the granting of

exceptions and issuance of development permits as it deems necessary to further the purposes of this chapter.

- (e) The floodplain administrator shall maintain the records of all appeal actions and report any exceptions to the Federal Emergency Management Authority upon request and as part of the city's biennial report."

**SECTION 3.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more Sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 4.** The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and this ordinance shall become effective thirty (30) days after its passage.

**PASSED, APPROVED, AND ADOPTED** at a regular meeting of the City Council of the City of Agoura Hills, California, on this 9th day of August 2017.

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DENIS WEBER  
MAYOR

ATTEST:

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KIMBERLY M. RODRIGUES, MMC  
CITY CLERK

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF AGOURA HILLS

I, Kimberly M. Rodrigues, City Clerk of the City of Agoura Hills, California, hereby certify that Ordinance No. [ORDINANCE NO.] was introduced at a regular meeting of the City Council of the City of Agoura Hills held on the [DAY] of [MONTH]



2017, and thereafter was adopted by the City Council at a regular meeting held on the [DAY] of [MONTH], 2017, and that the same was adopted by the following roll call vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

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CITY CLERK