

ORDINANCE NO. 2016-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMENDING CHAPTER 8.16 OF THE AMERICAN CANYON MUNICIPAL CODE TO UPDATE THE FLOODPLAIN ORDINANCE TO ADDRESS BASE FLOOD ELEVATION CHANGES DUE TO PHYSICAL ALTERATIONS AND CORRECT NONSUBSTANTIVE GRAMMATICAL AND TYPOGRAPHICAL ERRORS

WHEREAS, the National Flood Insurance Program (NFIP) requires homeowners with property located in a Special Flood Hazard Area to purchase flood insurance; and

WHEREAS, this insurance makes available guaranteed mortgages and direct loans, federal disaster relief loans and grants, as well as other flood relief assistance from the United States Federal Emergency Management Agency (FEMA) and other agencies to residents and businesses in floodplain zones; and

WHEREAS, the City's floodplain ordinance requires one addition to satisfy 44 Code of Federal regulations (CFR) Section 60.3 (c) of the National Flood Insurance Program (NFIP) regulations which requires the City to notify FEMA when flood improvements are made and to require the flood improvements to be constructed before issuing building permits in the affected area; and

WHEREAS, the proposed ordinance includes necessary changes to satisfy 44 Code of Federal regulations (CFR) Section 60.3 (c) of the National Flood Insurance Program (NFIP) regulations as well as nonsubstantive typographical and grammatical error corrections; and

WHEREAS, the City Council has considered all of the written and oral testimony presented at the public hearing on July 26, 2016 in making its decision.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:

Chapter 8.16 FLOODPLAIN MANAGEMENT REGULATIONS

Article I. Statutory Authorization, Findings of Fact, Purpose and Methods

8.16.010 Statutory authorization.

The Legislature of the state of California has in Government Code Sections 65302, 65560 and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the city council of the city of American Canyon does adopt the following floodplain management regulations. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.020 Findings of fact.

A. The flood hazard areas of the city of American Canyon 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 affects public health, safety and general welfare.

B. 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. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.030 Statement of purpose.

It is the purpose of this chapter to promote the recreational public health, safety and general welfare and to minimize public and private losses due to flood 8.16.030 conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.040 Methods of reducing flood losses.

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

- A. 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;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Control filing, grading, dredging and other development which may increase flood damage; and

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.050 Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance 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” means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

“Apex” means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this ordinance.

“Area of shallow flooding” means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“Area of special flood hazard” — See “special flood hazard area.”

“Area of special flood-related erosion hazard” is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).

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

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

“Basement” means any area of the building having its floor subgrade (i.e., below ground level) on all sides.

“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 the building and which 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 flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty 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.

“Building” — see “structure.”

“Coastal high hazard area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE or V.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings permanent structure 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 facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacture homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood, flooding, or flood water” means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

2. The condition resulting from flood-related erosion.

“Flood Boundary and Floodway Map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special hazards and the floodway.

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

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

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

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

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

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

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

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

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

“Floodplain management regulations” means this ordinance and other zoning ordinances,, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and to the application of police

power which control development in flood-prone areas. This term describes federal, site or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93 and TB 7-93 for guidelines on dry and wet floodproofing).

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as “regulatory floodway.”

“Floodway fringe” is that area of the floodplain on either side of the “regulatory floodway” where encroachment may be permitted.

“Fraud and victimization” as related to Article V, Variance Procedure, of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increase risk of damage from floods, which future owners of the property and the community as a whole are subject to all costs, inconvenience, danger and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carries out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

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

“Hardship” as related to Article V, Variance Procedure, of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The city council requires that the variance be exceptional, unusual and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

“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:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. 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 of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. 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 accord with sound engineering practices.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement — See “basement” definition.

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

- a. The wet floodproofing standard in Section 8.16.160(C)(3);
- b. The anchoring standards in Section 8.16.160(A);
- c. The construction materials and methods standards in Section 8.16.160(B); and
- d. The standards for utilities in Section 8.16.170.

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements - See “basement” definition. This prohibition includes below-grade garages and storage areas.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

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

“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 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 (NGVFD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

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

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

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

“New manufactured home park or subdivision” means a manufactured home park or subdivision for which construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

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

“One-hundred-year flood” or “100-year flood” - See “base flood.”

“Primary frontal dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

“Public safety and nuisance” as related to Article V, Variance Procedure, of this chapter means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational vehicle” means vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled 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.

“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 the ordinance 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, etc.

“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Sheet flow area” — See “area of shallow flooding.”

“Special flood hazard area (SHFA)” means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as ZONE A, AO, AI -30, AE, A99, AH, V 1-V30, VE OR V.

“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 to other improvement was within one hundred eighty 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 a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

“V Zone” - See “coastal high hazard area.”

“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 ordinance is presumed to be in violation until such time as that documentation is provided.

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

“Watercourse” means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 2001-13 §§ 1, 2, 2001)

Article II. General Provisions

8.16.060 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of American Canyon. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.070 Basis for establishing the areas of special flood hazard.

A. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated September 15, 1989, accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway (FBFMs), dated 1980 and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the city council by the floodplain administrator. The study, FIRMs and FBFMs are on file at 4381 Broadway, Suite 201, American Canyon, CA 94503 City Hall, or at 205 Wetlands Edge Road American Canyon, CA 94503, Department of Public Works.

B. 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 LOMR's for flood control projects are approved prior to the issuance of building permit. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's 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.

(Ord. 2001-13 §§ 1 and 2, 2001)

8.16.080 Compliance.

No structure or land shall thereafter be constructed, located, extended, converted or altered without full compliance with the term of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.090 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. The city of American Canyon may, at the discretion of its floodplain administrator, require prospective builders to prepare detailed studies of possible flood areas for areas outside the FIRM map area and impose reasonable building conditions as a result of the studies. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.100 Interpretation.

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other granted under state statutes. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.110 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 city council, any officer or employee thereof, the state of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.111 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. (Ord. 2001-13 §§ 1 and 2, 2001)

Article III. Administration

8.16.120 Establishment of development permit.

A development permit shall be obtained before any construction or any other development begins within any area of special flood hazard established in Section 8.16.070. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Site plan, including but not limited to:
 - 1. For all proposed structures, spot ground elevations at building corners and twenty-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site;
 - 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 crawl-space foundation, location and total net area of foundation openings as required in Section 8.16.160(C)(3) of this chapter and FEMA Technical Bulletins 1-93 and 7-93; and
 - 3. For foundations placed on fill, the location and height of fill and compaction requirements (compacted to ninety-five 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 8.16.160(C)(2) of this chapter and FEMA Technical Bulletin 3-93; and
- D. All appropriate certifications listed in Section 8.16.140(D) of this chapter; and
- E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.130 Designation of the floodplain administrator.

The city manager or the city manager's designee is appointed to administer, implement and enforce this chapter by granting or denying development permits in accordance with its provisions. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.140 Duties and responsibilities of the floodplain administrator.

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

- A. Permit Review. Review all development permits to determine that:
 - 1. Permit requirements of this chapter have been satisfied;

2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding; and
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

B. Review and Use of Any Other Base Flood Data.

1. When base flood elevation data has not been provided in accordance with Section 8.16.070, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 8.16.160. Any such information shall be submitted to the city council for adoption.

2. If no base flood elevation data is available from a federal or state agency 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 (one-hundred-year) Flood Elevations" dated July 1995 in order to administer Article IV:

a. Simplified method;

i. One-hundred-year or base year 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;

i. One-hundred-year or base year flood discharge shall be obtained using the U.S. Army Corps of Engineers' HEC-HMS computer program; and

ii. Base flood elevation shall be obtained using the U.S. Army Corps of Engineers' HEC-RAS computer program.

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

1. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

2. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

3. Assure that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained.

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

1. Certification required by Section 8.16.160(C)(1) and 8.16.190 (lowest floor elevations);
2. Certification required by Section 8.16.160(C)(2) (elevation or floodproofing of nonresidential structures);
3. Certification required by Section 8.16.160(C)(3) (wet floodproofing standard);
4. Certification of elevation required by Section 8.16.180(B) (subdivision standards);
5. Certification required by Section 8.16.210(A) (floodway encroachments); and
6. Reports required by Section 8.16.220(D) (mudflow standards).

E. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, 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 Article V.

F. Remedial Action. Take action to remedy violations of this chapter as specified in Section 8.16.080. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.150 Appeals.

The city council of the city of American Canyon shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter. (Ord. 2001-13 §§ 1 and 2, 2001)

Article IV. Provisions for Flood Hazard Reduction

8.16.160 Standards of construction.

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

- A. Anchoring.
 1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 2. All manufactured homes shall meet the anchoring standards of Section 8.16.190.

B. Construction Materials and Methods. All new construction and substantial improvement shall be constructed:

1. With flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;
2. Using methods and practices that minimize flood damage;
3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if
4. Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing (see Section 8.16.050 definitions for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement").

1. Residential construction, new or substantial improvement, shall have the lowest floor, including basement:
 - a. In an AO zone, elevated above the highest adjacent grade to a height exceeding by one foot the depth number specified in feet on the FIRM, or elevated at least three feet above the highest adjacent grade if no depth number is specified;
 - b. In an A zone, elevated at least one foot above the base flood elevation, said base flood elevation shall be determined by one of the methods in Section 8.16.140(B) of this chapter;
 - c. In all other zones, elevated at least one foot above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered 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.

2. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 8.16.160(C)(1) or together with attendant utility and sanitary facilities:

- a. Be floodproofed below the elevation recommended under Section 8.16.160(C)(1) so that the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Be certified by a registered professional engineer or architect that the standards of this Section 8.16.160(C)(2) are satisfied. Such certification shall be provided to the floodplain administrator.

3. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be

0.1v.i /V designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB 7-93, and must exceed the following minimum criteria:

- a. Be certified by a registered professional engineer or architect; or
- b. Be certified to comply with a local floodproofing standard approved by the Federal Insurance Administration, Federal Emergency Management Agency; and
- c. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of flood water.

4. Manufactured homes shall also meet the standards in Section 8.16.190. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.170 Standards for utilities.

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

1. Infiltration of flood waters into the systems; and
2. Discharge from the systems into flood waters.

B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.180 Standards for subdivisions.

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

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

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

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

E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.190 Standards for manufactured homes.

A. All manufactured homes that are placed or substantially improved, within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, on sites located:

1. Outside of a manufactured home park or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.

B. All manufactured homes that are placed or substantially improved on sites located within Zones VI-30, V, and VE on the communities Flood Insurance Rate Map will meet the requirements of Section 8.16.190(A).

C. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, AE, VI-30, V, and VE on the community's flood insurance rate map that are not subject to the provisions of Section 8.16.190(A) will be elevated so that either the:

1. Lowest floor of the manufactured home is at least one foot above the base flood elevation; or
2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.200 Standards for recreational vehicles.

A. All recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's flood insurance rate map will either:

1. Be on the site for fewer than one hundred eighty consecutive days;
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

3. Meet the permit requirements of Article III of this chapter and the elevation and anchoring requirements for manufactured homes in Section 8.16.190(A).

B. Recreation vehicles placed on sites within Zones VI-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 8.16.200(A). (Ord. 2001-13 §§ 1, 2, 2001)

8.16.210 Floodways.

Located within areas of special flood hazard established in Section 8.16.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

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

B. If Section 8.16.210(A) is satisfied, all new construction, substantial improvement and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Article IV of this chapter. (Ord. 2001-13 §§ 1, 2, 2001)

8.16.220 Mudslide (i.e., mudflow) prone areas.

A. The floodplain administrator shall review permits for proposed construction of other development to determine if it is proposed within a mudslide area.

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

1. Type and quality of soils;
2. Evidence of ground water or surface water problems;
3. Depth and quality of any fill;
4. Overall slope of the site; and
5. Weight that any proposed development will impose on the slope.

C. Within areas which may have mudslide hazards, the floodplain administration shall require that:

1. A site investigation and further review be made by persons qualified in geology and soils engineering;

2. The proposed grading, excavation, new construction and substantial improvement be adequately designed and protected against mudslide damages;
3. The proposed grading, excavations, new construction and substantial improvement not aggravate the existing hazard by creating either onsite disturbances; and
4. Drainage, planting, watering and maintenance not endanger slope stability. (Ord. 2001-13 §§ 1, 2, 2001)

8.16.230 Flood-related erosion-prone areas.

- A. The floodplain administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.
- B. Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
- C. If a proposed improvement is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.
- D. Within Zone E on the Flood Insurance Rate Map, a setback is required for all new development from the ocean, lake, bay, riverfront or other body of water to create a safety buffer consisting of a natural vegetative or contour strip. This buffer shall be designated according to the flood-related erosion hazard and erosion rate, in relation to the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as for agricultural, forestry, outdoor recreation and wildlife habitat areas and for other activities using temporary and portable structures only. (Ord. 2001-13 §§ 1 and 2, 2001)

Article V. Variance Procedure

8.16.240 Nature of variances.

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself not to the structure, its inhabitants or the property owners.

It is the duty of the city council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and

contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.250 Appeals to city council.

A. In passing upon requests for variances, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

1. Danger that materials may be swept onto other lands to the injury of others;
2. Danger of life and property due to flooding or erosion damage;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site; and
11. 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.

B. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official 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 twenty-five dollars for one hundred dollars of insurance coverage; and

2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the floodplain administrator in the Office

of the Napa County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

C. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency. (Ord. 2001-13 §§ 1 and 2, 2001)

8.16.260 Conditions for variances.

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

B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in

Section 8.16.050 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

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

D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the city council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city council believes will both provide relief and preserve the integrity of the local ordinance.

E. Variances shall only be issued upon a:

1. Showing of good and sufficient cause;

2. Determination that failure to grant the variance would result in exceptional "hardship" (as defined in Section 8.16.050 of this chapter) to the applicant; and

3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 8.16.050), cause fraud or victimization (as defined in Section 8.16.050) of the public, or conflict with existing local laws or ordinances.

F. Variances may be issued for new construction, substantial improvement and other proposed new development necessary for the conduct of a functionally dependent use; provided, that the provisions of Sections 8.16.260(A) through 8.16.260(E) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

G. Upon consideration of the factors of Section 8.16.250(C) and the purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 2001-13 §§ 1 and 2, 2001)

SECTION 2: Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations because it has no potential for resulting in physical change to the environment, directly or indirectly, as it prevents changes in the environment pending the completion of the contemplated possible review of City zoning regulations.

SECTION 3: Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 16th day of August, 2016, by the following vote:

| | |
|----------|---|
| AYES: | Council Members Joseph, Ramos, Leary, Vice Mayor Bennett and Mayor Garcia |
| NOES: | None |
| ABSTAIN: | None |
| ABSENT: | None |


The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 6th day of September, 2016, by the following vote:

AYES: Council Members Joseph, Ramos, Leary, Vice Mayor Bennett and Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None



Leon Garcia, Mayor

ATTEST:



Suellen Johnston, ZMC, City Clerk

APPROVED AS TO FORM:



William D. Ross, City Attorney