

TITLE 9

DIVISION 16: FLOOD DAMAGE PREVENTION REGULATION

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CHAPTER 1: STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

§ 91601.00	STATUTORY AUTHORIZATION
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§ 91601.00 STATUTORY AUTHORIZATION

The Legislature of the State of California has, in Government Code Sections 65302, 65560, and 65800, conferred upon local government the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of Imperial County does ordain as follows:

§ 91601.01 FINDINGS OF FACT

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

§ 91601.02 STATEMENT OF PURPOSE

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

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

- G. To insure that potential buyers are notified that property is in an area of special flood hazard.
- H. To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 91601.03 METHODS OF REDUCING FLOOD LOSSES

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

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities.
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
- D. Controlling, filling, grading, dredging and other development which may increase flood damage.
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

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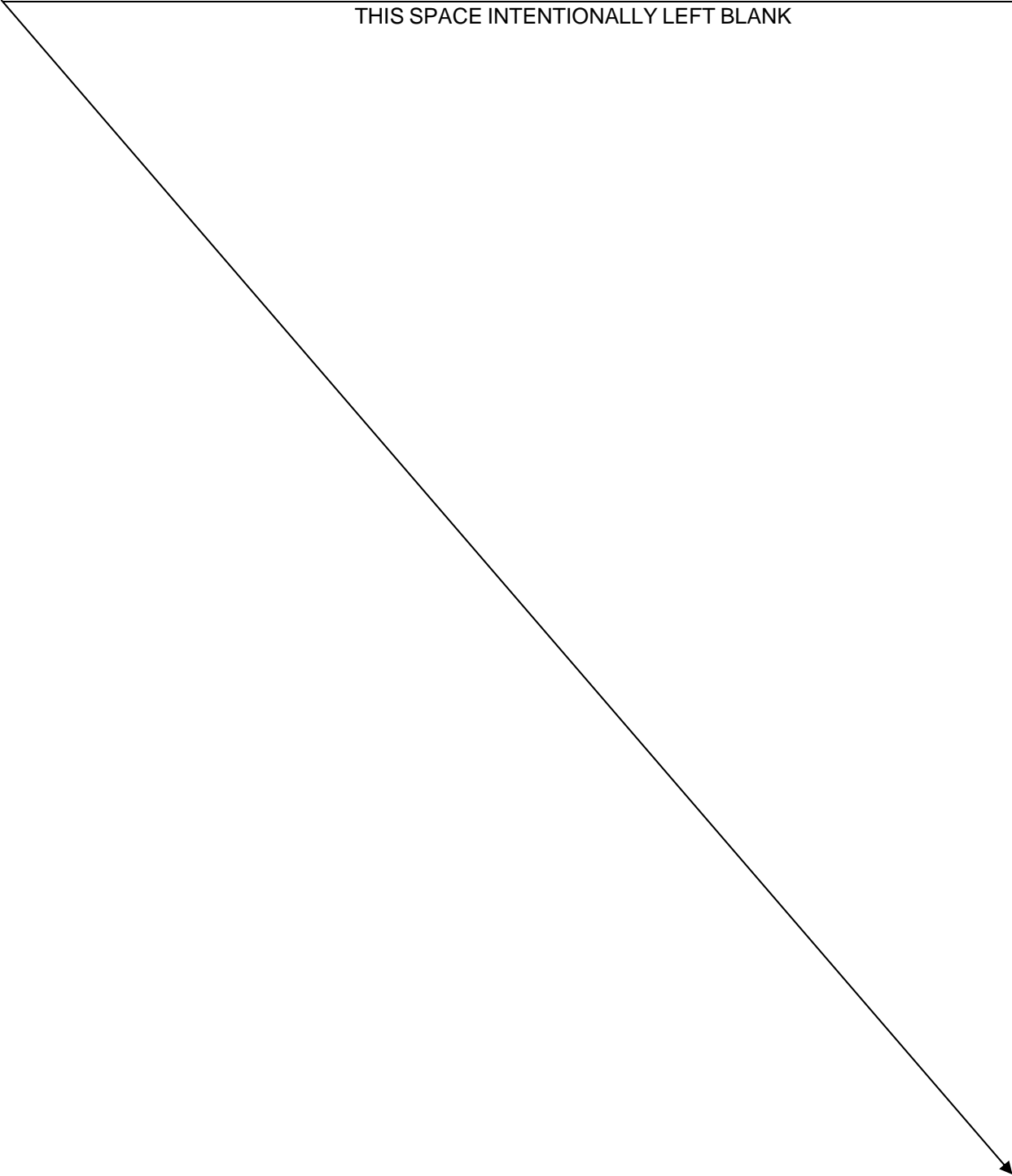
TITLE 9

DIVISION 16: FLOOD DAMAGE PREVENTION REGULATION

CHAPTER 2: DEFINITIONS

Unless specifically defined within this Division, words and phrases used in Division 16 (Flood Damage Prevention) shall be interpreted and/or have the meaning as defined in Chapter 1, Division 14 of Title 9, commencing with Section 91401.00.

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TITLE 9

DIVISION 16: FLOOD DAMAGE PREVENTION REGULATION (91600.00)

CHAPTER 3: GENERAL PROVISIONS

§ 91603.00	LANDS TO WHICH THIS ORDINANCE APPLIES
§ 91603.01	BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD
§ 91603.02	COMPLIANCE
§ 91603.03	ABROGATION AND GREATER RESTRICTIONS
§ 91603.04	INTERPRETATION
§ 91603.05	WARNING AND DISCLAIMER OF LIABILITY
§ 91603.06	SEVERABILITY

§ 91603.00 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards and areas of mudslide (i.e., mudflow) hazards within the jurisdiction of Imperial County.

§ 91603.01 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard, and areas of mudslide (i.e. mudflow) hazards identified by the Federal Emergency Management Agency or the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study" with an accompanying Flood Insurance Rate Map(s) for Imperial County dated September 26, 2008 and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be part of this division is hereby adopted by reference and declared to be a part of this ordinance. This Flood Insurance Study is on file at the 801 Main Street, El Centro, CA (Planning & Development Services Department). In addition, the Board of Supervisors hereby also includes any area of land located around the Salton Sea and lying at or below the -220 foot elevation contour. This Flood Insurance Study is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Board of Supervisors by the Floodplain Administrator.

§ 91603.02 COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Board of Supervisors from taking such lawful action as is necessary to prevent or remedy any violation.

§ 91603.03 ABROGATION AND GREATER RESTRICTIONS

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

§ 91603.04 INTERPRETATION

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

- A. Considered as minimum requirements.
- B. Liberally construed in favor of the governing body.

C. Deemed neither to limit nor repeal any other powers granted by State statutes.

§ 91603.05 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards, and areas of mudslide hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Imperial County, any officer or employee thereof, the State of California or the Federal Insurance Administration Federal Emergency Management Agency for any damages that result from reliance on this ordinance or any administrative decision lawfully hereunder.

§ 91603.06 SEVERABILITY

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

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TITLE 9

DIVISION 16: FLOOD DAMAGE PREVENTION REGULATION (91600.00)

CHAPTER 4: ADMINISTRATION

§ 91604.00	ESTABLISHMENT OF DEVELOPMENT PERMIT
§ 91604.01	DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR
§ 91604.02	DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR
§ 91604.03	APPEALS

§ 91604.00 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazards or areas of mudslide (i.e., mudflow) established in Section 91603.01. 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 elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Site plan, including but not limited to:
1. for all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site; and
 2. proposed locations of water supply, sanitary sewer, and utilities; and
 3. if available, the base flood elevation from the Flood Insurance Study and/or Flood Insurance Rate Map; and
 4. if applicable, the location of the regulatory floodway; and
- B. Foundation design detail, including but not limited to:
1. proposed elevation in relation to sea level, of the lowest floor (including basement) of all structures; and
 2. for a crawl-space foundation, location and total net area of foundation openings as required in [Section 91605.00. C.3](#) 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 95 percent using the Standard Proctor Test method); and
- C. Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed, as required in [Section 91605.00. C.2](#) and FEMA Technical Bulletin TB 3-93; and
- D. All appropriate certifications listed in [Section 91604.02.D](#); and
- E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 91604.01 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Building Official is hereby appointed to administer and implement this ordinance by granting or denying development permits in accordance with its provisions.

§ **91604.02 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

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

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
2. All other required State and Federal permits have been obtained.
3. The site is reasonably safe from flooding.
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 ordinance, "adversely affects" 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 foot at any point.

B. Use of the Other Base Flood Data.

1. When base flood elevations data has not been provided in accordance with Section 91603.01 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 this ordinance. Any such information shall be submitted to the Board of Supervisors for adoption; or
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 (100-year) Flood Elevations" dated July 1995 in order to administer this ordinance:
 - a. Simplified method
 - i. 100 year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge-drainage area method; and
 - ii. base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or
 - b. Detailed method
 - i. 100 year or base 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 whenever 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;

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 said watercourse is maintained.
- D. Determination of Floodplain Development. Obtain and maintain for public inspection and make available as needed documentation of floodplain development:
1. The certification required in Section 91605.00 (C) and 91605.03 (lowest floor elevation).
 2. Certification required by Section 91605.00 (C) (elevation or floodproofing of nonresidential structures),
 3. The certification required in Section 91605.00 (C)(3) (wet flood-proofing standard).
 4. The certification elevation required in Section 91605.02 (B) (subdivision standards).
 5. The certification required in Section 91605.06 (A) (floodway encroachment).
 6. Reports required by Section 91605.07 (C) (mudflow standards).
- E. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards, or areas of mudslide (i.e., mudflow). 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 for in [Chapter 6](#) below.
- F. Remedial Action. Take action to remedy violations of this ordinance as specified in Section 91603.02 herein.

§ **91604.03 APPEALS.**

The Board of Supervisors of the County of Imperial shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator and/or the Building Board of Appeals in the enforcement or administration of this ordinance.

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TITLE 9

DIVISION 16: FLOOD DAMAGE PREVENTION REGULATION

CHAPTER 5: PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 91605.00	STANDARDS OF CONSTRUCTION
§ 91605.01	STANDARDS FOR UTILITIES
§ 91605.02	STANDARDS FOR SUBDIVISIONS
§ 91605.03	STANDARDS FOR MANUFACTURED HOMES
§ 91605.04	STANDARDS FOR RECREATIONAL VEHICLES
§ 91605.05	FLOOD-RELATED EROSION-PRONE AREA
§ 91605.06	FLOODWAYS
§ 91605.07	MUDSLIDES (I.E., MUDFLOW) PRONE AREAS

§ 91605.00 STANDARDS FOR 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. A licensed architect or registered professional engineer shall assess all new construction and any substantial improvements.
 - 3. All manufactured homes shall meet the anchoring standards of Section 91605.03.
- 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 Division 14 of Title 9 for 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 height two feet above the depth number specified in feet on the FIRM, or elevated at least four feet above the highest adjacent grade if no depth number is specified

- b. In an A Zone, elevated to at least two feet above the base flood elevation; said base flood elevation; said base flood elevation shall be determined by one of the methods in Section 91604.02 (B) of this ordinance.
 - c. In all other Zones, elevated at least two feet above the base flood elevation.
Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the County 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 91605.00 (C) (1) or together with attendant utility and sanitary facilities:
- a. be floodproofed below the elevation recommended under Section 91605.00 (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 91605.00 (C)(2) are satisfied. Such certification shall be provided to the Floodplain Administrator.
3. All new construction or substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletins TB 1-91 and TB 7-93, and must exceed the following minimum criteria:
- a. have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. Openings may be equipped with screens, louvers, valves or other covering devices provided that they permit the automatic entry and exit of floodwater; or
 - b. be certified by a registered professional engineer or architect.
4. Manufactured homes shall also meet the standards in Section 91605.03.

§ 91605.01 STANDARDS FOR UTILITIES

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 91605.02 STANDARDS FOR SUBDIVISIONS

- A. All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.
- B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

- C. All subdivision proposals shall be consistent with the need to minimize flood damage.
- D. All subdivision proposals shall have public utility 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.

§ 91605.03 STANDARDS FOR MANUFACTURED HOMES

- 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 new construction and any substantial improvements shall be assessed by a licensed architect or registered professional engineer.
- C. All manufactured homes that are placed or substantially improved, within Zones A1-30, AH, and AE on the County's Flood Insurance Rate Map, on sites located:
 - a. outside of a manufactured home park or subdivision,
 - b. in a new manufactured home park or subdivision,
 - c. in an expansion to an existing manufactured home park or subdivision, or
 - d. in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least two feet above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- D. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V and VE on the County's Flood Insurance Rate Map that are not subject to the provisions of paragraph 91605.03 (C) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 - a. lowest floor of the manufactured home is at or above the base flood elevation (The State of California recommends at least two feet above the base flood elevation), or
 - b. manufactured homes chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

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

§ 91605.04 STANDARDS FOR RECREATIONAL VEHICLES

- A. All recreational vehicles placed on sited within Zones A1-30, AH, and AE on the County's Flood Insurance Rate Map will either:
 - 1. be on a site for fewer than 180 consecutive days, and be fully licensed and ready for highway use – a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is

attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or

2. meet the permit requirements of Chapter 4 (Sections 91604.00 – 91604.03) of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 91605.03 (C).

§ 91605.05 FLOOD-RELATED EROSION-PRONE AREA

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

§ 91605.06 FLOODWAYS

Located within areas of special flood hazard established in Section 91603.01 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered engineer or licensed architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If Section 91605.06 (A) is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Chapter 5 (Sections 91605.00 – 91605.07) herein.

§ 91605.07 MUDSLIDE (i.e., mudflow) PRONE AREAS

- A. The Floodplain Administrator shall review permits for proposed construction or other development to determine it is proposed within a mudslide area.
- B. Permits shall be reviewed to determine that the proposed development is reasonably safe from mudslide hazards. Factors to be considered in making this determination include but are not limited to:
 1. The type and quality of soils.
 2. Evidence of ground water or surface water problems.

3. The depth and quality of any fill.
 4. The overall slope of the site.
 5. The weight that any proposed development will impose on the slope.
- C. Within areas which have mudslide hazards, the following requirements apply:
1. A person qualified in geology and soils engineering shall make a site investigation and further review.
 2. The proposed grading, excavation, new construction and substantial improvements shall be adequately designed and protected against mudslide damages.
 3. The proposed grading, excavations, new construction and substantial improvements do not aggravate the existing hazard by creating either on-site or off-site disturbance.
 4. Drainage, planting, watering and maintenance shall not endanger slope stability.
- D. Within Zone M on the Flood Insurance Rate Map, the County shall adopt a drainage ordinance which at least complies with the standards of Section 7001 through 7006 and Sections 7008 through 7015 of the most recent amendment of the Uniform Building Code:
1. The location of foundation and utility systems of new construction and substantial improvements.
 2. The location, drainage and maintenance of all excavations, cuts and fills and planted slopes.
 3. Protective measures including but not limited to retaining walls, buttress fills, sub-drains, diverted terraces, benchings, etc.
 4. Engineering drawings and specifications to be submitted for all corrective measures accompanied by supporting soils engineering and geology reports.

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TITLE 9

DIVISION 16: FLOOD DAMAGE PREVENTION REGULATION

CHAPTER 6: VARIANCE PROCEDURE

§ 91606.00	APPEALS BOARD
§ 91606.01	CONDITIONS FOR VARIANCES
§ 91606.02	APPEALS TO THE BOARD OF SUPERVISORS
§ 91606.03	FEES

§ 91606.00 APPEALS BOARD

- A. The Building Board of Appeals of Imperial County shall hear and decide appeals and requests for variances from the requirements of this ordinance.
- B. The Building Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- C. In passing upon such applications, the Building Board of Appeals shall consider all technical evaluations, all relevant factors, standards specific in other sections of this ordinance, and:
1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger of 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 existing owner and future owners of the property.
 4. The importance of the services provided by the proposed facility to the County.
 5. The necessity to the facility of a waterfront location, where applicable.
 6. The availability of alternative locations for the proposed 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 floodplain management program for that area.
 9. The safety of access to the property in time of flood for ordinary and emergency vehicles.
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system, streets and bridges.
- D. 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 items [Chapter 4 \(91604.00-91604.03\)](#) and [Chapter 5 \(91605.00-91605.07\)](#) have been fully considered. As

the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

- E. Upon consideration of the factors of Section 91606.00 (C) above and the purposes of this ordinance, the Building Board of Appeals may attach such conditions to the granting of variance as it deems necessary to further the purpose of this ordinance.
- F. The Floodplain Administrator shall maintain the records of all appeal actions, including justification for their issuance, and report any variances issued its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

§ 91606.01 CONDITIONS FOR VARIANCES

- A. Variances may be issued for the reconstruction, rehabilitation or restoration of “historic” structures (as defined in Title 9 Division 14) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon a determination that the variance is the “minimum necessary”, considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this ordinance.
- D. Variances shall only be issued upon:
 - 1. A showing of good and sufficient cause.
 - 2. A determination that failure to grant the variance would result in exceptional “hardship” (as defined in Division 14 of Title 9) to the applicant.
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create a nuisance, (as defined in Division 14 of Title 9 – see “Public Safety and Nuisance”) cause fraud on or victimization of the public, (as defined in Division 14 of Title 9) or conflict with existing local laws or ordinances.
- E. Variances may be issued for new construction and substantial improvements and/or other development necessary for the conduct of a functionally dependent use provided that the provisions of Section 91606.01, A through D above are satisfied and that the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the Flood- plain Administrator in the office of the Imperial County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

§ 91606.02 APPEALS TO THE BOARD OF SUPERVISORS

The decision of the Board of Appeals on any appeal or request for waiver shall be final, unless within ten (10) days after said decision a written appeal to the Board of Supervisors is filed by the applicant with the Building Official. Said appeal shall state the grounds upon which the appeal is made. Said appeal shall be heard at a public hearing at a regularly scheduled meeting of the Board of Supervisors within one month after the date of

filing of said appeal. Notice of the time and place of said hearing shall be given to the applicant by mailing such notice to him/her at his/her last known address at least five (5) days prior to the date set for such hearing. A copy of said notice shall also be sent to the Clerk of the Board of Supervisors and to all members of the Board of Appeals.

§ 91606.03 FEES

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| A. Review fee for building permits for structures lying within an area of special flood hazard. | \$75.00 |
| B. Review fee for applications for subdivisions lying within an area of special flood hazard. | \$200.00 |
| C. Fee for appeals or request for waiver to the Flood Hazard Review Board. | \$75.00 |
| D. Fee for appeals to the Board of Supervisors. | \$400.00 |

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