



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: September 11, 2006

FROM: CITY ATTORNEY

SUBJECT: AN ORDINANCE OF THE CITY OF PASADENA ADDING A NEW CHAPTER 14.27 TO THE PASADENA MUNICIPAL CODE TO INCLUDE FLOODPLAIN MANAGEMENT REGULATIONS REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA")

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA ADDING A NEW CHAPTER 14.27 TO THE PASADENA MUNICIPAL CODE TO INCLUDE FLOODPLAIN MANAGEMENT REGULATIONS REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA")

BACKGROUND:

The City of Pasadena is a participant in the National Flood Insurance Program (NFIP), a Federal program enabling property owners in participating communities to purchase insurance as a protection against flood losses in exchange for State and community floodplain management regulations that reduce future flood damages. As a participant of the NFIP, the City is required to have an adopted floodplain management ordinance which meets the minimum NFIP regulations.

In March 2006, the City received notice from the State of California Department of Water Resources that new floodplain management regulations must be adopted before September 30, 2006, the date FEMA will publish a new Digital Flood Insurance Rate Map for Los Angeles County. FEMA regulations state that if a community does not adopt new floodplain management regulations or amend its existing regulations before the effective date of the flood map, the community will be suspended from the NFIP. If suspended from the program, property owners will not be able to purchase NFIP flood insurance policies and existing

MEETING OF 09/11/2006

AGENDA ITEM NO. 11.A.(5)

policies will not be renewed. Additionally, Federal disaster assistance for flood damage will be limited and certain Federal grants and loans will not be available in identified flood hazard areas.

The City was provided a model floodplain management ordinance which will be incorporated, as a whole, within Title 14, Building and Construction, of the Pasadena Municipal Code.

Accordingly, at its August 7, 2006 meeting, the City Council directed the City Attorney to prepare, within 45 days, an ordinance adding Chapter 14.27 to the Pasadena Municipal Code to include Floodplain Management regulations required by the Federal Emergency Management Agency.

PURPOSE OF ORDINANCE:

This proposed ordinance will provide regulations that will modify the City's standards for construction, subdivisions, new development, and utilities to enable the City to meet FEMA floodplain regulations. In addition, this proposed ordinance will designate a Floodplain Administrator, whose responsibilities include permit review and review of available flood data.

REASON WHY LEGISLATION IS NEEDED:

In order to adopt new regulations, the Pasadena Municipal Code may only be amended by ordinance.

PROGRAMS , DEPARTMENTS OR GROUPS AFFECTED:

The Department of Public Works, the Department of Planning and Development and the Department of Water and Power will be primarily affected by the adoption of this proposed ordinance.

Respectfully submitted:

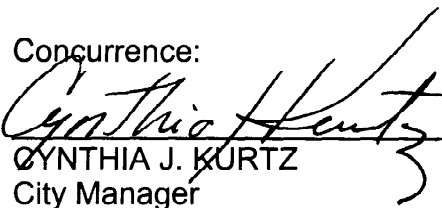

MICHELE BEAL BAGNERIS
City Attorney

Prepared by:

8/31/06


NICHOLAS GEORGE RODRIGUEZ
Assistant City Attorney

Concurrence:


CYNTHIA J. KURTZ
City Manager

Introduced by:

AN ORDINANCE OF THE CITY OF PASADENA ADDING A NEW CHAPTER 14.27 TO THE PASADENA MUNICIPAL CODE TO INCLUDE FLOODPLAIN MANAGEMENT REGULATIONS REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA").

WHEREAS, 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 People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding costs of publication, will be published by title and summary as permitted by Section 508 of the Charter. The approved summary of this ordinance reads as follows:

"SUMMARY

The purposes of this ordinance are to add a new Chapter 14.27 to the Pasadena Municipal Code entitled "Floodplain Management Regulations," to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 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.”

SECTION 2. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 3. This ordinance shall take effect on its publication by title and summary.

Signed and approved this day of _____, 2006.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by
the City Council of the City of Pasadena at its meeting held the ____ day of
_____, 2006, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Published:

Jane L. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:

 8/31/06

Nicholas George Rodriguez
Assistant City Attorney

Introduced by:

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- 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.”

SECTION 2. The Pasadena Municipal Code is amended by adding a new Chapter 14.27 to read:

“Chapter 14.27

Floodplain Management Regulations

Sections.

- 14.27.010 Short title.
- 14.27.020 Purposes of ordinance.
- 14.27.030 Definitions.
- 14.27.040 Applicability.
- 14.27.050 Basis for establishing flood-prone areas.
- 14.27.060 Compliance.
- 14.27.070 Abrogation and greater restrictions.
- 14.27.080 Interpretation.
- 14.27.090 Warning and disclaimer of liability.
- 14.27.100 Severability.
- 14.27.120 Designation of the Floodplain Administrator.
- 14.27.130 Duties and responsibilities of the Floodplain Administrator.
- 14.27.140 Standards of construction for flood hazard reduction
- 14.27.150 Standards for subdivisions or other proposed new development.
- 14.27.160 Standards for utilities.

14.27.010 Short title.

This chapter shall be known as the ‘Floodplain Management Regulations Ordinance.’

14.27.020 Purposes of ordinance.

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

- 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.

14.27.030 Definitions.

For the purposes of this chapter, the following terms are defined as follows:

'Area of special flood hazard' shall mean the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

'Base flood' shall mean a flood which has a one percent chance of being

equaled or exceeded in any given year (also called the "100-year flood").

'Building' - see **'Structure'**.

'Development' shall mean 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.

'Flood or flooding' shall mean:

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; or mudslides (i.e., mudflows) which are proximately caused by flooding as defined herein and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusual and unforeseeable event which results in flooding as defined in this definition.

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

'Floodplain Administrator' shall mean the individual appointed to administer and enforce the floodplain management regulations.

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

'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.

'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 preliminarily 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 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 with approved programs.

'Manufactured home' shall mean 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' shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

'New construction', for floodplain management purposes, shall mean 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.

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

'Recreational vehicle' shall mean a vehicle which is

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. designed to be self-propelled or permanently towable by a light-duty truck;

and

4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

'Start of construction' includes substantial improvement and other proposed new development, and shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of

columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main 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' shall mean a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

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

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

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'.

14.27.040 Applicability.

This ordinance shall apply to all areas identified as flood-prone areas within the boundaries of the city of Pasadena.

14.27.050 Basis for establishing flood-prone areas.

The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood data available from federal or state agencies or other source to identify flood-prone areas within the boundaries of the city of Pasadena. This data will be on file at the city of Pasadena department of planning and development, 175 North Garfield Avenue, Pasadena, California 91101.

14.27.060 Compliance.

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

14.27.070 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.

14.27.080 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; and
- C. deemed neither to limit nor repeal any other powers granted under state statutes.

14.27.090 Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city council of the city of Pasadena, 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 ordinance or any administrative decision lawfully made hereunder.

14.27.100 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.

14.27.120 Designation of the Floodplain Administrator.

The city manager or such city employee as she may designate, in writing, is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

14.27.130 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 applications to determine that
 1. permit requirements of this ordinance have been satisfied,
 2. all other required state and federal permits have been obtained, and
 3. the site is reasonably safe from flooding.
- B. Review and use of any other base flood data. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood data available from other federal or state agency or other source.

14.27.140 Standards of construction for flood hazard reduction.

If a proposed building site is in a flood-prone area, all new construction and substantial improvements, including manufactured homes, shall:

- A. Be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Be constructed
 1. with materials 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.

14.27.150 Standards for subdivisions or other proposed new development.

If a subdivision proposal or other proposed new development, including manufactured home parks or subdivisions, is in a flood-prone area, any such proposals shall be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage within the floodprone area;
- B. All public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards.

14.27.160 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.

SECTION 3. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 4. This ordinance shall take effect on its publication by title and summary.

Signed and approved this _____ day of _____, 2006.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held the ____ day of _____, 2006, by the following vote:

Ayes:

Noes:

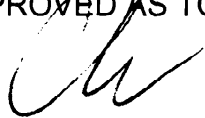
Absent:

Abstain:

Published:

Jane L. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:

 8/31/06

Nicholas George Rodriguez
Assistant City Attorney