

BEFORE THE COUNCIL OF THE CITY OF SAN MATEO IN THE
COUNCIL CHAMBERS, 330 WEST 20TH AVENUE

ORDINANCE INTRODUCED: _____
ORDINANCE ADOPTION TO BE CONSIDERED AT 8 P.M. _____

ORDINANCE NO. 2001-__

ADDING CHAPTER 23.33
TO THE SAN MATEO MUNICIPAL CODE
REGARDING FLOODPLAIN MANAGEMENT

The Council of the City of San Mateo, California, ordains as follows:

Section 1. Chapter 23.33 is added to the San Mateo Municipal Code to read as follows:

Chapter 23.33

FLOODPLAIN MANAGEMENT

Sections:

- 23.33.010 Statutory Authorization, Findings of Fact, Purpose and Methods.
- 23.33.020 Definitions.
- 23.33.030 General Provisions.
- 23.33.040 Administration.
- 23.33.050 Provisions for Flood Hazard Reduction.
- 23.33.060 Alternate Design Standard Procedure.

23.33.010 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS.

(a) 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.

Having certain portions of the City being designated as flood hazard areas on the latest Federal Emergency Management Agency (FEMA) maps and having received a model ordinance from the California Department of Water Resources, as a means to comply with both federal and State of California requirements for floodplain management, upon which this ordinance is substantially based and having obtained prior approval from FEMA regarding the suitability of this ordinance for purposes of enabling San Mateo citizens within flood hazard areas to purchase flood insurance; therefore, the City council of the City of San Mateo does hereby adopt the following floodplain management regulations.

(b) FINDINGS OF FACT.

(1) The flood hazard areas of the City of San Mateo are subject to periodic inundation which results in loss of life and property, health and safety hazards,

disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) 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.

(c) **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 to:

- (1) protect human life and health;
- (2) minimize expenditure of public money for costly flood control projects;
- (3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) minimize prolonged business interruptions;
- (5) 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;

(6) 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;

(7) assist in notifying potential buyers that property is in an area of special flood hazard; and

(8) ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(d) **METHODS OF REDUCING FLOOD LOSSES.** In order to accomplish its purposes, this ordinance includes methods and provisions to

(1) 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;

(2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) control filling, grading, dredging, and other development which may increase flood damage; and

(5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

23.33.020 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. These definitions are not intended to supersede or to be applicable to other codes or regulations.

(1) "**Accessory use**" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

(2) "**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.

(3) "**Alternate design standard**" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

(4) "**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.

(5) "**Appeal**" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

(6) "**Area of special flood hazard**" - See "Special flood hazard area."

(7) "**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 ordinance.

(8) "**Basement**" means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

(9) "**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 is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

(10) "**Building**" - see "**Structure**".

(11) "**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.

(12) "**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.

(13) "**Encroachment**" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

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

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

(16) "**Flood, flooding, or flood water**" means:

(a) 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

(b) the condition resulting from flood-related erosion .

(17) "**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.

(18) "**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.

(19) "**Floodplain or flood-prone area**" means any land area susceptible to being inundated by water from any source - see "**Flooding**".

(20) "**Floodplain Administrator**" is the individual appointed to administer and enforce the floodplain management regulations.

(21) "**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.

(22) "**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 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.

(23) "**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.

(24) "**Fraud and victimization**" as related to section 23.33.060, Alternate design standards of this ordinance, means that the alternate design standard granted must not cause fraud on or victimization of the public. In examining this requirement, the City 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 increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, 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.

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

(26) "**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.

(27) "**Hardship**" as related to section 23.33.060, Alternate design standards, of this ordinance means the exceptional hardship that would result from a failure to grant the requested alternate design standard. The City requires that the alternate design standard 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 an alternate design standard, 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.

(28) "**Highest adjacent grade**" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(29) "**Historic structure**" means any structure that is

(a) 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;

(b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

(e) Individually listed on a local inventory of historic places that has been identified by the local agency.

(30) "**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.

(31) "**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.

(32) "**Lowest floor**" means the lowest horizontal structural surface excluding finishes of the lowest enclosed area, including basement (see "**Basement**" definition).

(a) 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

(b) 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.

(33) "**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".

(34) "**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.

(35) "**Market Value**" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

(36) "**Mean sea level**" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

(37) "**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.

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

(39) "**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.

(40) "**One-hundred-year flood**" or "100-year flood" - see "**Base flood.**"

(41) "**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.

(42) "**Public safety and nuisance**" as related to section 23.33.060, **Alternate design standards**, of this ordinance means that the granting of an alternate design standard 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.

(43) "**Recreational vehicle**" means a vehicle which is
(a) built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) designed to be self-propelled or permanently towable by a light-duty truck; and

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

(44) "**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.

(45) "**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.

(46) "**Residential Construction**" means structures containing one or two residential dwelling units or residential living space. Hotels, motels, apartments, and mixed use buildings with no residential dwelling units at or below base flood elevation are not considered residential construction.

(47) "**Riverine**" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(48) "**Sand dunes**" mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

(49) "**Sheet flow area**" - see "**Area of shallow flooding**".

(50) "**Special flood hazard area (SFHA)**" means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

(51) "**Start of construction**" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the 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.

(52) "**Structure**" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

(53) "**Substantial damage**" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred

(54) "**Substantial improvement**" means 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. It shall be presumed that additions to the existing structure which cover an area which is 50 percent of the before the "start of construction" floor area, will trigger the 50 percent of market value standard. The term does not, however, include either

(a) 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

(b) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

(55) "**V zone**" - see "**Coastal high hazard area**".

(56) "**Violation**" means the failure of a structure or other development to be fully compliant with this ordinance. 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.

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

(58) "**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.

23.33.010 GENERAL PROVISIONS.

(a) **LANDS TO WHICH THIS ORDINANCE APPLIES.** This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of San Mateo.

(b) **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.** 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) initiated on August 27, 1993, on the Flood Insurance Rate Maps (FIRMs), dated October 19, 2001, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This mapping 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 City Council by the Floodplain Administrator. The study and FIRMs are on file at San Mateo City Hall, 330 W. 20th Avenue, San Mateo, CA 94403.

(c) **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 from taking such lawful action as is necessary to prevent or remedy any violation.

(d) **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.

(e) **INTERPRETATION.** In the interpretation and application of this ordinance, all provisions shall be

(1) considered as minimum requirements;

(2) liberally construed in favor of the governing body; and

(3) deemed neither to limit nor repeal any other powers granted under state statutes.

(f) **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 of San Mateo, 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.

(g) **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.

23.33.040 ADMINISTRATION.

(a) **APPLICATION OF DEVELOPMENT STANDARDS.** Development standards contained in this ordinance shall apply to all development located within an area of special flood hazard. Formal City approval in the form of a building permit or some other development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in section 23.33.010(b). Application of these development standards shall be made by use of 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.

(b) **DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.** The City Manager for the City of San Mateo or his designee is appointed to administer, implement, and enforce this ordinance.

(c) **DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.** The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following.

(1) Make determinations concerning the implementation of the requirements of this ordinance on development projects within the City of San Mateo and to determine that

- (i) permit requirements of this ordinance have been satisfied,
- (ii) all other required state and federal permits have been obtained,
- (iii) the site is reasonably safe from flooding, and
- (iv) 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 increase the water surface elevation of the base flood more than one foot at any point.

(2) Review and Use of Any Other Base Flood Data.

(i) When base flood elevation data has not been provided in accordance with section 23.33.010(b), 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 23.33.050. Any such information shall be submitted to the City of San Mateo for adoption.

(3) Notification of Other Agencies. In alteration or relocation of a watercourse:

(i) notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;

(ii) submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

(iii) assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(4) Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed all development and building permits issued, plans approved and certifications required for projects governed by this ordinance and or certified hereunder.

The records of the Floodplain Administrator shall include, but not be limited to, the following:

(i) The elevation of the lowest floor for each new building or substantially improved building,

(ii) The method of floodproofing of all construction below the base flood elevation

(iii) The design calculations and design details confirming structure can automatically equalize hydrostatic forces on exterior walls,

(iv) Records of all inspections necessary to ensure compliance with floodplain regulations.

(5) Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (d) below.

(6) Remedial Action. Take action to remedy violations of this ordinance as specified in subsection (c) of this section.

(d) **APPEALS.** The Director of Public Works or the Director of Community Development as designated by the City Manager of the City of San Mateo 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. Appeals shall be filed at the City Clerk's office within 10 days of the decision of the Floodplain Administrator.

23.33.050 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(a) **STANDARDS OF CONSTRUCTION.** In all areas of special flood hazards the following standards are required:

(1) Anchoring

(i) 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.

(i) All manufactured homes shall meet the anchoring standards of section 23.233.050e).

(2) Construction materials and methods. All new construction and substantial improvement shall be constructed

(i) with flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, or as amended, and utility equipment resistant to flood damage;

(ii) using methods and practices that minimize flood damage;

(iii) with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(3) Elevation and floodproofing. (See section 23.33.020 definitions for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement".)

(i) Residential construction, new or substantial improvement, shall have the lowest floor, including basement,

a) in all Zones, except V Zones, elevated to or above the base flood elevation.

b) reserved.

c) subgrade enclosed spaces are prohibited in residential construction. This prohibition includes below grade garages and storage areas.

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 submitted to the community building inspector and represented to be properly elevated. Such certification shall be provided to the Floodplain Administrator for review.

(ii) Nonresidential construction, new or substantial improvement, shall either be elevated to conform with section 23.33.050(a)(3)(i) or together with attendant utility and sanitary facilities

a) be floodproofed below the elevation recommended under section 23.33.050(a)(3)(i) 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 are satisfied. Such certification shall be provided to the Floodplain Administrator.

(iii) 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 designed to automatically equalize hydrostatic flood forces on exterior walls

by allowing for the entry and exit of floodwater. Designs for meeting this requirement 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. 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 floodwater. or

b) be certified by a registered professional engineer or architect; or

(iv) Manufactured homes shall also meet the standards in section 23.33.050(e).

(b) **BREAKAWAY WALLS.** 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.

(c) **STANDARDS FOR UTILITIES.**

(1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

(i) infiltration of flood waters into the systems, and

(ii) discharge from the systems into flood waters.

(2) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

(d) **STANDARDS FOR SUBDIVISIONS.**

(1) All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.

(2) 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 lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(3) All subdivision proposals shall be consistent with the need to minimize flood damage.

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

(5) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

(e) **STANDARDS FOR MANUFACTURED HOMES.**

(1) 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

(i) outside of a manufactured home park or subdivision,

(ii) in a new manufactured home park or subdivision,

(iii) in an expansion to an existing manufactured home park or subdivision, or

(iv) 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 to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation collapse and lateral movement.

(2) All manufactured homes that are placed or substantially improved on sites located within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of section 23.33.050(d)(1).

(3) 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 community's Flood Insurance Rate Map that are not subject to the provisions of paragraph 23.33.050(e)(1) A will be securely fastened to an adequately anchored foundation system to resist flotation collapse and lateral movement, and be elevated so that either the

(i) lowest floor of the manufactured home is at or above the base flood elevation, or

(ii) manufactured home 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 submitted to the community building inspector and represented to be properly elevated. Such certification shall be provided to the Floodplain Administrator for review.

(f) STANDARDS FOR RECREATIONAL VEHICLES.

(1) All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map will either:

(i) be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use – a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or

(ii) meet the permit requirements of section 23.33.040 of this ordinance and the elevation and anchoring requirements for manufactured homes in section 23.33.050(d)(1).

(2) Recreation vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of section 23.33.050(e)(1).

(g) COASTAL HIGH HAZARD AREAS. Within coastal high hazard areas as established under section 23.33.010(b), the following standards shall apply.

(1) All new construction and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

(2) All new construction and other development shall be located on the landward side of the reach of mean high tide.

(3) All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in section 23.33.020 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

(4) Fill shall not be used for structural support of buildings.

(5) Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

(6) The Floodplain Administrator shall obtain and maintain the following records.

(i) Reserved.

(ii) The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

23.33.060 ALTERNATE DESIGN STANDARD PROCEDURE.

(a) **NATURE OF ALTERNATE DESIGN STANDARDS.** The alternate design standard criteria set forth in this section of the ordinance are based on the general principle that alternate design standards pertain to a piece of property and are not personal in nature. A alternate design standard may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is a goal of the City of San Mateo 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 alternate design standard 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 alternate design standard are strictly limited. Therefore, the alternate design standard guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before an alternate design standard can be properly granted. The criteria are designed to screen out those situations in which alternatives other than an alternate design standard are more appropriate. Notwithstanding this provision, nothing in this ordinance shall be construed so as to create a mandatory duty on behalf of the City of San Mateo, its officers or employees.

Initial determination regarding issuance of a permit based upon alternate design standards shall be by the Floodplain Administrator.

(1) In passing upon requests for alternate design standards, the Floodplain Administrator shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the

(i) danger that materials may be swept onto other lands to the injury of others;

(ii) danger of life and property due to flooding or erosion damage;

(iii) 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;

- (iv) importance of the services provided by the proposed facility to the community;
- (v) necessity to the facility of a waterfront location, where applicable;
- (vi) availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) compatibility of the proposed use with existing and anticipated development;
- (viii) relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (ix) safety of access to the property in time of flood for ordinary and emergency vehicles;
- (x) expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
- (xi) 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.

(2) Any applicant to whom an alternate design standard is granted shall be given written notice over the signature of a community official that

(i) the issuance of an alternate design standard to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

(ii) 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 San Mateo County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(3) The Floodplain Administrator will maintain a record of all alternate design standards actions, including justification for their issuance, and report such alternate design standards issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

(b) CONDITIONS FOR ALTERNATE DESIGN STANDARDS.

(1) Generally, alternate design standards 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 sections 23.33.040 and 23.33.050 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the alternate design standard increases.

(2) Alternate design standard may be issued for the repair or rehabilitation of "historic structures" (as defined in section 23.33.020 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 alternate design standard is the minimum necessary to preserve the historic character and design of the structure.

(3) Alternate design standard shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(4) Alternate design standard shall only be issued upon a determination that the alternate design standard 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. For example, in the case of alternate design standards to an elevation requirement, this means the City 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 believes will both provide relief and preserve the integrity of the local ordinance.

(5) Alternate design standard shall only be issued upon a

(i) showing of good and sufficient cause;

(ii) determination that failure to grant the alternate design standard would result in exceptional "hardship" (as defined in section 23.33.020 of this ordinance) to the applicant; and

(iii) determination that the granting of an alternate design standard will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in section 23.33.020 - see "**Public safety or nuisance**"), cause fraud or victimization (as defined in section 23.23.020) of the public, or conflict with existing local laws or ordinances.

(6) Alternate design standard 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 section 23.33.060 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.

(7) Upon consideration of the factors of section 23.33.060(a) and the purposes of this ordinance, the City may attach such conditions to the granting of alternate design standard as it deems necessary to further the purposes of this ordinance.

Section 2. PUBLICATION. This Ordinance shall be published once in the San Mateo County Times and shall be effective upon publication.

MAYOR

ATTEST:

CITY CLERK