

Chapter 17.78

FLOOD DAMAGE PREVENTION

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17.78.010 Statutory authorization, findings of fact, purpose, and methods.

A. *Statutory Authorization.* The Legislature of the State has in Government Code Sections [65302](#), [65560](#), and [65800](#) conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the council does hereby adopt these floodplain management regulations.

B. *Findings of Fact.*

1. The flood hazard areas of the city 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 that increase flood heights and velocities also contributes to flood losses.

C. *Statement of Purpose.* It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood-prone, mudslide (i.e., mudflow), and/or flood-related erosion areas. These regulations are 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. Ensure that potential buyers are notified 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.* To accomplish its purposes, this chapter includes regulations to:
1. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards, or that result in damaging increases in erosion or flood heights or velocities;
 2. Require that uses vulnerable to floods, including facilities that 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 floodwaters;
 4. Control filling, grading, dredging, and other development that may increase flood damage;
 5. Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or that may increase flood hazards in other areas; and
 6. These regulations take precedence over any less restrictive conflicting local laws, ordinances, and codes. (Ord. 1650 § 3 (Exh. B), 2018)

17.78.020 Definitions.

Words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application, and as defined in Chapter [17.158](#) (General Definitions) under "Floodplain Management Regulations." (Ord. 1650 § 3 (Exh. B), 2018)

17.78.030 General provisions.

- A. *Lands to Which This Chapter Applies.* This chapter shall apply to all areas of special flood hazards and where specifically identified, XB zones, within the jurisdiction of the city.
- B. *Basis for Establishing the Areas of Special Flood Hazard.* The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for the City of San Luis Obispo, California in San Luis Obispo County" dated October 1978, with accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), dated April 1979, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant

mapping are the minimum areas of applicability of this chapter and may be supplemented by studies for other areas, including local experience and historical data which allow implementation of this chapter and which are recommended to the council by the floodplain administrator to be included in the regulated area. The study, FIRMs, and FBFMs are on file at the Department of Public Works, 919 Palm Street.

C. *Compliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing here shall prevent the council from taking such lawful action as is necessary to prevent or remedy any violation.

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

E. *Interpretation.* In the interpretation and application of this chapter, 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 chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses allowed within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the council, any officer or employee thereof, the state, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 1650 § 3 (Exh. B), 2018)

17.78.040 Administration.

A. *Designation of the Floodplain Administrator.* The public works director or his/her designee is hereby appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions.

B. *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. *Permit Review.* Review all development permits to determine:
 - a. Permit requirements of this chapter have been satisfied, including determination of substantial improvement and substantial damage of existing structures;

- b. The applicant was advised other local, state or federal permits may be required;
 - c. The site is reasonably safe from flooding;
 - d. 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. This 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 within the city;
 - e. If the proposed development is within a designated infill area, special floodplain management zone, or the Mid-Higuera Specific Plan Area as defined by the Drainage Design Manual, that the more stringent requirements of the manual have been met; and
 - f. All letters of map revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.
2. *Development of Substantial Improvement and Substantial Damage Procedures.*
- a. Using FEMA publication FEMA 213, “Answers to Questions About Substantially Damaged Buildings,” develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining “market value.”
 - b. Ensure procedures are coordinated with other departments/divisions and implemented by community development department staff.
3. *Review, Use, and Development of Other Base Flood Data.* When base flood elevation data has not been provided in compliance with Section [17.78.030\(B\)](#) (Basis for Establishing the Areas of Special Flood Hazard), 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 [17.78.050](#) (Provisions for Flood Hazard Reduction).
- NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication FEMA 265, “Managing Floodplain Development in Approximate Zone A Areas—A Guide for Obtaining and Developing Base (100-Year) Flood Elevations” dated July 1995.
4. *Notification of Other Agencies.*
- a. *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 Emergency Management Agency; and

iii. Ensure that the flood carrying capacity within the altered or relocated portion of the watercourse is maintained.

b. *Base Flood Elevation Changes Due to Physical Alterations.*

i. Within six months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or ensure that the permit applicant submits technical or scientific data to FEMA for a letter of map revision (LOMR).

ii. All LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on conditional letters of map revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

c. *Changes in Corporate Boundaries.* Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

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

a. Certification required by Sections [17.78.050\(A\)\(3\)](#) and [17.78.050\(D\)](#) (lowest floor elevations);

b. Certification required by Section [17.78.050\(A\)\(3\)](#) (elevation or floodproofing of nonresidential structures);

c. Certification required by Section [17.78.050\(A\)\(3\)](#) (wet floodproofing standard);

d. Certification of elevation required by Section [17.78.050\(C\)\(1\)](#) (subdivisions and other proposed development standards);

e. Certification required by Section [17.78.050\(F\)\(2\)](#) (floodway encroachments); and

f. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to FEMA.

6. *Map Determination.* 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 [\(D\)](#) of this section.

7. *Remedial Action.* Take action to remedy violations of this chapter as specified in Section [17.78.030\(C\)](#) (Compliance).

8. *Biennial Report.* Complete and submit biennial report to FEMA.
9. *Planning.* Ensure the general plan is consistent with floodplain management objectives here.
10. *Nonconversion of Enclosed Areas Below the Lowest Floor.* To ensure that the areas below one foot above the base flood elevation (BFE) shall be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the floodplain administrator shall:
 - a. Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are five feet or higher;
 - b. Obtain a "Conversion Agreement for Construction Within Flood Hazard Areas" or equivalent between the property owner and the city. The agreement shall be recorded with the county of San Luis Obispo recorder as a deed restriction. The conversion agreement shall be in a form acceptable to the floodplain administrator and city attorney and:
 - i. Condition the property that there shall be no conversion of enclosed areas below the lowest floor elevation without first becoming fully compliant with this chapter and other city requirements.
 - ii. Have the authority granted to the city to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least seventy-two hours.

C. *Development Permit.* A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section [17.78.030\(B\)](#) (Basis for Establishing the Areas of Special Flood Hazard). Application for a development permit shall be made on forms furnished by the city. The applicant shall provide the following minimum information:

1. Plans in duplicate, drawn to scale, showing:
 - a. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 - b. Proposed locations of water supply, sanitary sewer, and other utilities;
 - c. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - d. Location of the regulatory floodway when applicable;
 - e. Base flood elevation information as specified in Sections [17.78.030\(B\)](#) (Basis for Establishing the Areas of Special Flood Hazard) or subsection [\(B\)\(3\)](#) (Review, Use, and Development of Other Base Flood Data) of this section;
 - f. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

g. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section [17.78.050\(A\)\(3\)](#) (Elevation and Floodproofing) and detailed in FEMA Technical Bulletin TB 3-93.

2. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section [17.78.050\(A\)\(3\)](#) (Elevation and Floodproofing).
3. For a crawlspace foundation, location and total net area of foundation openings as required in Section [17.78.050\(A\)\(3\)](#) (Elevation and Floodproofing) and detailed in FEMA Technical Bulletins 1-93 and 7-93.
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
5. All appropriate certifications listed in subsection [\(B\)\(5\)](#) (Documentation of Floodplain Development) of this section.

D. *Appeals.* The council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter. (Ord. 1650 § 3 (Exh. B), 2018)

17.78.050 Provisions for flood hazard reduction.

A. *Standards of Construction.* In all areas of special flood hazards, the following standards are required:

1. *Anchoring.* All new construction and substantial improvements of structures, including manufactured homes, 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. *Construction Materials and Methods.* All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:
 - a. With flood-resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
 - b. Using methods and practices that minimize flood damage;
 - c. 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
 - d. Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
3. *Elevation and Floodproofing.*

- a. *Residential Construction.* Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the Building Official to be properly elevated. Such certification and verification shall be provided to the floodplain administrator. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:
- i. In AE, AH, A1-30 zones, elevated one foot above the base flood elevation.
 - ii. In an AO zone, elevated above the highest adjacent grade to a height one foot above the depth number specified in feet on the FIRM, or elevated at least three feet above the highest adjacent grade if no depth number is specified.
 - iii. In an A zone, without BFEs specified on the FIRM [unnumbered A zone], elevated one foot above the base flood elevation; as determined under Section [17.78.040\(B\)\(3\)](#) (Review, Use, and Development of Other Base Flood Data).
 - iv. In an XB zone, above the base flood elevation.
- b. *Nonresidential Construction.* All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section or:
- i. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section, so that the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. Be certified by a registered civil engineer or architect that the standards of subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section are satisfied. Such certification shall be provided to the floodplain administrator.
- c. *Flood Openings.* All new construction and substantial improvements of structures 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 meet the following minimum criteria:
- i. For nonengineered openings:
 - (a) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (b) The bottom of all openings shall be no higher than one foot above grade;

- (c) Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of floodwater; and
 - (d) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow floodwater to directly enter; or
 - ii. Be certified by a registered civil engineer or architect.
- d. *Manufactured Homes.*
 - i. Manufactured homes located outside of manufactured home parks or subdivisions shall meet the elevation and floodproofing requirement in subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section.
 - ii. Manufactured homes placed within manufactured home parks or subdivisions shall meet the standards in subsection [D](#) (Standards for Manufactured Homes Within Manufactured Home Parks or Subdivisions) of this section. Additional guidance may be found in FEMA Technical Bulletins TB 1-93 and TB 7-93.
- e. *Garages and Low-Cost Accessory Structures.*
 - i. Attached Garages.
 - (a) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of floodwaters. See subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section. Areas of the garage below the BFE must be constructed with flood-resistant materials. See subsection [\(A\)\(2\)](#) (Construction Materials and Methods) of this section.
 - (b) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below-grade parking areas, see FEMA Technical Bulletin TB-6.
 - ii. *Detached Garages and Accessory Structures.*
 - (a) Accessory structures used solely for parking (two-car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section [17.158.016](#)—F Definitions, under Floodplain Management Regulations, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in compliance with the following requirements:
 - (1) Use of the accessory structure must be limited to parking or limited storage;
 - (2) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - (3) The accessory structure must be adequately anchored to prevent flotation, collapse, and lateral movement;

(4) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;

(5) The accessory structure must comply with floodplain encroachment provisions in subsection [F](#) (Floodways) of this section; and

(6) The accessory structure must be designed to allow for the automatic entry of floodwaters in compliance with subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section.

(b) Detached garages and accessory structures not meeting the above standards must be constructed in compliance with all applicable standards in subsection [A](#) (Standards of Construction) of this section.

B. *Standards for Utilities.*

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

- a. Infiltration of floodwaters into the systems; and
- b. Discharge from the systems into floodwaters.

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

C. *Standards for Subdivisions and Other Proposed Development.*

1. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is the lesser, shall:

- a. Identify the special flood hazard areas (SFHA) and base flood elevations (BFE).
- b. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
- c. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a letter of map revision based on fill (LOMR-F) to the floodplain administrator:
 - i. Lowest floor elevation.
 - ii. Pad elevation.
 - iii. Lowest adjacent grade.

2. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

3. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
4. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

D. *Standards for Manufactured Homes Within Manufactured Home Parks or Subdivisions.* All manufactured homes in special flood hazard areas shall meet the anchoring standards in subsection [\(A\)\(1\)](#) (Anchoring) of this section, construction materials and methods requirements in subsection [\(A\)\(2\)](#) (Construction Materials and Methods) of this section, flood openings requirements in subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section, and garages and low-cost accessory structure standards in subsection [\(A\)\(3\)](#) (Elevation and Floodproofing) of this section. Manufactured homes located outside of manufactured home parks or subdivisions shall meet the elevation and floodproofing requirement in subsection [\(A\)\(3\)](#) of this section.

1. All manufactured homes that are placed or substantially improved on sites located: (a) in a new manufactured home park or subdivision; (b) in an expansion to an existing manufactured home park or subdivision; or (c) 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 within zones A1-30, AH, and AE on the community’s flood insurance rate map, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot 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 to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, and AE on the community’s flood insurance rate map that are not subject to the provisions of subsection [\(D\)\(1\)](#) of this section shall 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 least one foot above the base flood elevation; or
 - b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the building official, to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

E. *Standards for Recreational Vehicles.*

1. All recreational vehicles placed in zones A1-30, AH, and AE shall either:
 - a. Be on the site for fewer than one hundred eighty consecutive days; or
 - b. 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

- c. Meet the permit requirements of Section [17.78.040\(C\)](#) (Development Permit) and the elevation and anchoring requirements for manufactured homes in subsection [\(D\)\(1\)](#) of this section.

F. *Floodways*. Since floodways are extremely hazardous areas due to the velocity of floodwaters that carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Until a regulatory floodway is adopted, no new construction, substantial development, or other development, including fill, shall be allowed within zones A1-30 and AE unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than one foot at any point within the city.
2. If the proposed development is within a designated infill area, special floodplain management zone, or the Mid-Higuera Specific Plan Area as defined by the Drainage Design Manual, the more stringent requirements of the manual apply.
3. Within an adopted regulatory floodway, the city shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
4. If subsections [\(F\)\(1\)](#) and [\(F\)\(2\)](#) of this section are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of this subsection. (Ord. 1650 § 3 (Exh. B), 2018)

17.78.060 Variance procedure for floodplains.

A. *Nature of Floodplain Variances*. The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

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

It is the duty of the council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

B. *Conditions for Variances.*

1. 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; provided, that the procedures of Sections [17.78.040](#) (Administration) and [17.78.050](#) (Provisions for Flood Hazard Reduction) of this chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in Chapter [17.158](#): General Definitions, under Floodplain Management Regulations) 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.
3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the “minimum necessary,” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the council believes will both provide relief and preserve the integrity of this chapter.
5. Any applicant to whom a variance is granted shall be given written notice over the signature of the floodplain administrator that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one hundred dollars of insurance coverage; and
 - b. 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 County of San Luis Obispo recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
6. The floodplain administrator shall maintain a record of all variance actions, including justification for his/her issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

C. *Authority to Grant Variances.* Notwithstanding the provisions of Chapter [17.114](#) (Variances), the council shall be responsible for conducting public hearings on variances pertaining to the provisions of this chapter and for acting upon such variance applications.

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

- a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger of life and property due to flooding or erosion damage;
 - c. 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;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. Compatibility of the proposed use with existing and anticipated development;
 - h. Relationship of the proposed use to the general plan and floodplain management program for that area;
 - i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
 - k. 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. Variances shall only be issued upon a:
- a. Showing of good and sufficient cause;
 - b. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a public nuisance, cause fraud and victimization of the public, or conflict with existing local laws or ordinances.
3. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use; provided, that the provisions of subsections [\(C\)\(1\)](#) through [\(C\)\(4\)](#) of this section 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.
4. Upon consideration of the factors of subsection [B](#) of this section and the purposes of this chapter, the council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 1650 § 3 (Exh. B), 2018)

The San Luis Obispo Municipal Code is current through Ordinance 1720, passed August 16, 2022.

Disclaimer: The City Clerk's Office has the official version of the San Luis Obispo Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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