

EXHIBIT "A"

CITY OF MADERA
FLOOD DAMAGE PREVENTION REGULATIONS

SECTION 1.0
STATUTORY AUTHORIZATION, FINDINGS OF FACT,
PURPOSE AND METHODS

1.1 STATUTORY AUTHORIZATION. The Legislature of the State of California has in Government Code Sections 65302, 65560 and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Madera does resolve as follows hereby adopts the following floodplain management regulations:

1.2 FINDINGS OF FACT.

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

1.3 STATEMENT OF PURPOSE. It is the purpose of these 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:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

EXHIBIT "A"

- F. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas caused by flood damage
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purposes, these regulations include methods and provisions for:

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

SECTION 2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give Resolution No. 4534 its most reasonable application.

"A zone" - see "Special flood hazard area".

EXHIBIT "A"

"Accessory structure, low-cost and small" means a structure that is:

1. Solely for the parking of no more than 2 cars; or limited storage (small, low cost sheds); and
2. a small, low cost shed for limited storage, less than one hundred fifty (150) square feet and one thousand five hundred dollars (\$1,500.00) in value

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

"Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

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

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this resolution.

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

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

"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 resolution.

EXHIBIT "A"

"Basement" means any area of the building having its floor below ground level on all sides.

"Building" — see "Structure"

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

"Encroachment" means the advance of 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.

"Flood, flooding, or flood water" means

1. a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; the unusual and rapid accumulation or runoff of surface waters from any source and
2. The condition resulting from flood—related erosion — see "**Flood-related erosion**".

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

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

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

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

EXHIBIT "A"

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

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

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

"Floodplain management regulations" means this resolution or other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading, and erosion control) and other applications of police power which control development in flood-prone areas. This term describes such federal, state or local regulations in any combination thereof which provide standards for the purpose of flood damage prevention and reduction.

"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.

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

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

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

EXHIBIT "A"

works, and floodplain management regulations.

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

"Floodway fringe" is the area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

"Fraud and victimization" as related to Section 6, **Variances**, of these regulations, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to 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.

"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, but does not include long—term storage or related manufacturing facilities.

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

"Hardship" as related to Section 6, **Variances**, of these regulations means the exceptional hardship that would result from the failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a

EXHIBIT "A"

variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"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 listings on the National Register;
2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district 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) 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.

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

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area including basement (see "**Basement**" definition).

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

EXHIBIT "A"

- a. The wet flood proofing standard in Section 5.1.C.3.
 - b. The anchoring standards in Section 5.1.A.
 - c. The construction materials and methods standards in Section 5.1.B.
 - d. The standards for utilities in Section 5.2.
2. For residential structures, all sub grade enclosed areas are prohibited as they are considered to be basements (see "**Basement**" definition). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

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

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

"Manufactured home park or subdivision — expansion to existing" 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, either final site grading or pouring of concrete pads, or the construction of streets)

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

"Market value" is defined in the **City of Madera** substantial damage/improvement procedures. See **Section 4.2.B.1.**

EXHIBIT "A"

"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.

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

"Obstruction" includes, but is not limited to, an 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 watercourses which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One hundred year flood" or "100- year flood" see **"Base Flood"**

"Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this State or its agencies or political subdivisions.

"Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to Section 6, **Variations**, of these regulations means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is:

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

EXHIBIT "A"

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

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Remedy a violation" means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

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

"Sheet flow area" — see **"Area of shallow flooding"**.

"Special flood hazard area (SFHA)" means an area having special flood or flood—related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AI-30, AE, AH, or M.

"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 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 on any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

EXHIBIT "A"

"Structure" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

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

"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 improvements. 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".

"Variance" means a grant of relief from the requirements of these regulations which permits construction in a manner that would otherwise be prohibited by these regulations.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

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

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

EXHIBIT "A"

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THESE REGULATIONS APPLY. These regulations shall apply to all areas of special flood hazards within the jurisdiction of the City of Madera.

3.2 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 a scientific and engineering report entitled, "Flood Insurance Study for City of Madera", dated June 4, 1987, with an accompanying Flood Insurance Rate Map (FIRM), and all subsequent amendments and/or revisions, is hereby adopted by reference and declared to be a part of these regulations. This Flood Insurance Study is on file at 205 West 4th Street, Madera, California, 93637. This Flood Insurance Study and attendant mapping is the minimum area of applicability of these regulations and may be supplemented by studies for other areas which allow implementation of these regulations and which are recommended to the Madera City Council by the Floodplain Administrator.

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

3.4 ABROGATION AND GREATER RESTRICTIONS. These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, resolution, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION. In the interpretation and application of these regulations, all provisions shall be:

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

EXHIBIT "A"

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

3.6 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by these regulations 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. These regulations do 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. These regulations shall not create liability on the part of the City of Madera, 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 these regulations or any administrative decision lawfully made thereunder.

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

SECTION 4.0 ADMINISTRATIONS

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT. A development permit shall be obtained before construction or development begins within any area of special flood "hazards established in Section 3.2. Application for a -development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Proposed elevation-, - in relation to mean sea level, of the lowest floor (including basement) of all structures in Zone AO, elevation of the highest adjacent grade and proposed elevation of the lowest floor of all structures; or
- B. Proposed elevation in relation to mean sea level to which any nonresidential structure will be flood proofed, if required in Section 5.I.C.3 and

EXHIBIT "A"

- C. All appropriate certifications listed in Section 4.3.D of these regulations; and
- D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR. The City Engineer is hereby appointed to administer and implement these regulations by granting or denying development permits in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- A. **Permit review.** Review all development permits to determine that
 1. the permit requirements of these regulations have been satisfied.
 2. all other required state and federal permits have been obtained,
 3. the site is reasonably safe from flooding:-, and
 4. the proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not, been designated. For purposes of these regulations, "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.
 5. All Letters of Map Revision (LOMR's) 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 (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.
- B. **Use of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Section 3.2, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, in order to administer Section 5.0. Any such information shall be submitted to the City Council for adoption.
- C. **Development of Substantial Improvement and Substantial Damage Procedures.**

EXHIBIT "A"

1. 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."
2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

D. Notification of Other Agencies. Whenever a watercourse is to be altered or relocated:

1. Notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
2. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
3. Base Flood Elevation changes due to physical alterations:
 - a) Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - b) All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

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

4. 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.

EXHIBIT "A"

- E. Documentation of Floodplain Development.** Obtain and maintain for public inspection and make available as needed.
1. The certification required in Section 5.I.C.1 (lowest floor elevations);
 2. The certification required in Section 5.I.C.2--e (elevation or flood proofing of nonresidential structures);
 3. The certification required in Section 5.I.C.3 (wet flood proofing standard);
 4. The certified elevation required in Section 5.3.B (subdivision standards); and
 5. The certification required in Section 5.6.A (floodway encroachments).
 6. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.
- F. Map Determinations.** Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, 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 Section 6.2.
- G. Remedial Action.** Take action to remedy violations of these regulations as specified in Section 3.3 herein.
- H. Biennial Report:**
- Complete and submit Biennial Report to FEMA.
- I. Planning.**
- Assure community's General Plan is consistent with floodplain management objectives herein.

4.4 APPEALS. The City Council of the City of Madera 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 these regulations.

EXHIBIT "A"

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 STANDARDS OF CONSTRUCTION. In all areas of special flood hazards, the following standards are required:

A. Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movements of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. All manufactured homes shall meet the anchoring standards of Section 5.4.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall be constructed 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;-
4. And if within Zones AH and AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Flood proofing (See Section 2 definitions for "basement," "lowest floor," "new construction," "substantial damage," and "substantial improvement".)

1. **Residential construction, new or substantial improvement,** shall have the lowest floor, including basement,
 - a) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

EXHIBIT "A"

- b) in an A zone, elevated to or above the base flood elevation, as determined by this community.
- c) in all other Zones, elevated to or above the base flood elevation.

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

2. **Nonresidential construction, new or substantial improvement**, shall either be elevated in conformance with Section 5.1.C.1 or together with attendant utility and sanitary facilities:
 - a) be flood proofed so that below the base flood level, recommended under Section 5.1.C.1, 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 certifications shall be provided to the Floodplain Administrator.
3. **Flood Openings:**

Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor (excluding basement) 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 floodwaters. Designs for meeting this requirement must exceed the following minimum criteria:

 - a) be certified by a registered professional engineer or architect or:
 - b) 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 floodwaters; or
 - c) Be certified by a registered civil engineer or architect.
4. **Manufactured homes** shall also meet the standards in Section 5.1 C.

EXHIBIT "A"

5. Garages and low cost accessory structures.

a) Attached garages

- 1) 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 flood waters. See Section 5.1.C.3. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 5.1.B.
- 2) 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.

b) Detached garages and accessory structures.

- 1) Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 2, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
- 2) Use of the accessory structure must be limited to parking or limited storage;
- 3) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
- 4) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
- 5) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
- 6) The accessory structure must comply with floodplain encroachment provisions in Section 5.6; and
- 7) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 5.1.C.3.

- c) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 5.1.

EXHIBIT "A"

5.2 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 system and
 - 2. Discharge from systems into floodwaters.
- B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.3 STANDARDS FOR SUBDIVISIONS.

- A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 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..
- B. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final lowest floor and pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

EXHIBIT "A"

- C. All subdivision proposals shall be consistent with the need to minimize flood damage.
- D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

5.4 STANDARDS FOR MANUFACTURED HOMES.

- A. All manufactured homes that are placed or substantially improved, within Zones A1—A30, AH, and AE on the communities Flood Insurance Rate Map, on sites located
 - 1. outside of a manufactured home park or subdivision,
 - 2. in a new manufactured home park or subdivision,
 - 3. in an expansion to an existing manufactured home park or subdivision, or
 - 4. in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage", as the result of a flood,
- B. Shall be elevated on a permanent foundation so that the lowest floor of the manufactured home is at or above the base flood elevation; and
- C. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement.
- D. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within. Zones A1-A30, AH, and AE on the community's Flood Insurance Rate Map that are not subject to the provisions of paragraph 5.4.A will be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement, and elevated so that either the
 - 1. lowest floor of the manufactured home is at or above the base flood elevation, or

EXHIBIT "A"

2. 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.

5.5 STANDARDS FOR RECREATIONAL VEHICLES. All recreational vehicles placed on sites within Zones A1-A30, AM, and AE on the community's Flood Insurance Rate Map will either:

1. 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
2. meet the permit requirements of Section 4 of these regulations and the elevation and anchoring requirements for manufactured homes in Section 5.4.A.

5.6 FLOODWAYS. Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in_ [the base] flood levels during the occurrence of the base flood discharge.
- B. If Section 5.6.A & B is satisfied, all new construction, substantial improvements, and other new development shall comply with all other applicable flood hazard reduction provisions of Section 5.

5.7 FLOOD-RELATED EROSION-PRONE AREAS.

EXHIBIT "A"

- A. The Floodplain Administrator shall require permits for proposed construction and other development within all flood-related erosion—prone areas known to the community.
- B. Permit applications shall be reviewed to determine whether the proposed site and improvements will be reasonably safe from flood-related erosion and will not cause flood—related erosion hazards or otherwise aggravate the existing hazard.
- C. If a proposed improvement is found to be in the path of flood related erosion or would increase the erosion hazard, such improvement shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

SECTION 6.0

VARIANCE PROCEDURE

6.1 NATURE OF VARIANCES. The variance criteria set forth in this section of these regulations 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 these regulations 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 characteristics must pertain to the 1- and itself—1 not to the structure, its— inhabitants, or the property owners.

16

It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood levels are so serious that variances from the flood elevation or from other requirements in these regulation 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 these regulations 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.

EXHIBIT "A"

6.2 APPEAL BOARD

- A. The City Council of the City of Madera shall hear and decide appeals and requests for variances from the requirements of these regulations.
- B. The City 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 these regulations.
- C. In passing upon such applications, the City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of these regulations, and:
 1. the danger that materials may be swept onto other lands to the injury of others;
 2. the danger of life and property due to flooding or erosion damage;
 3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and future owners of the property
 4. the importance of the services provided by the proposed facility to the community;
 5. the necessity to the facility of a waterfront location, where applicable;
 6. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. the compatibility of the proposed use with existing and anticipated development;
 8. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. the safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. the expected heights, velocity, duration, rate of rise, and sediment —transport of the flood waters expected at the site; and –
 11. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges.

EXHIBIT "A"

- D. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that
1. the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 2. such construction below the base flood levels increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County of Madera Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- E. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

6.3 CONDITIONS FOR VARIANCES

- A. Generally, variances may be issued for new construction and substantial improvements, 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 procedure of Sections 4 and 5 of these regulations have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation or restoration of "historic structures" (as defined in Section 2 of these regulations upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any designated mapped regulatory floodway if any increase in flood levels during—the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the "minimum necessary"⁷ considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of these regulations. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant

EXHIBIT "A"

proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of these regulations.

E. Variances shall only be issued upon:

1. a showing of good and sufficient cause;
2. a determination that failure to grant the variance would result in exceptional "hardship" (as defined in Section 2 of these regulations) to the applicant; and
3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances (as defined in Section 2 — see "Public safety and nuisance"), cause fraud or victimization (as defined in Section 2) of the public, or conflict with existing local laws, ordinances, or regulations.

F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use, provided that the provisions of Sections 6.3.A through 6.3.E are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety and does not create a public nuisance.

G. Upon consideration of the factors of Section 6.2.A and the purposes of these regulations, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.