

Regular Meeting Agenda Visalia City Council



Mayor: Bob Link
Vice Mayor: Amy Shuklian
Council Member: Warren Gubler
Council Member: Mike Lane
Council Member: Steve Nelsen

Monday, October 18, 2010

Visalia Convention Center, 303 E. Acequia, Visalia CA 93291

Closed Session 6:00 p.m.

Regular Session 7:00 p.m.



6:00 p.m. CLOSED SESSION

1. Conference with Legal Counsel – Anticipated Litigation - Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 2 potential cases
2. Conference with Legal Counsel – Existing Litigation Subdivision (a) of Section 54956.9 Pendleton v. City of Visalia; Case 10-235906
3. Conference with Labor Negotiators (G.C. §54957.6)
Agency designated representatives: Steve Salomon, Eric Frost, Diane Davis, Shelline Bennett
Employee Organization: All Employee Groups
4. *Item removed at the request of staff*

7:00 p.m. CALL TO ORDER REGULAR SESSION

PLEDGE OF ALLEGIANCE

INVOCATION

SPECIAL PRESENTATIONS/RECOGNITION

- Introduction and performance of Teen Idol winner - Steven Braswell

PUBLIC COMMENTS - *This is the time for citizens to comment on subject matters that are not on the agenda that are within the jurisdiction of the Visalia City Council.*

This is also the time for citizens to comment on items listed on the Consent Calendar or to request an item from the Consent Calendar be pulled for discussion purposes. Comments related to Regular or Public Hearing Items that are listed on this agenda will be heard at the time that item is discussed or at the time the Public Hearing is opened for comment.

In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your street name and city.

5. CONSENT CALENDAR - *Consent Calendar items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made and then the item will be removed from the Consent Calendar to be discussed and voted upon by a separate motion.*

- a) Authorization to read ordinances by title only.
- b) Consideration of staff recommendation to move the City Council appointed Committee and Commission term beginning date to July 1, and ending date to June 30 of the appropriate year for the term being considered, and to extend all current terms to coincide with these dates.
- c) Authorize addition of 33 acres consisting of four privately-owned parcels and right-of-way to the boundaries of the previously-initiated Visalia Annexation No. 2009-02 (West Goshen Ave). The properties are located on the east and west sides of Road 88 between Goshen Avenue and 1,300 feet south of Goshen Avenue. APNS: 081-030-049; 081-140-003, 006. **Resolution 2010-67 required.**
- d) Appointment of Rick Jones, George Curtis, Carlos Estrada, Trilby Barton and Linda Denny as Disability Advocacy Committee Members effective November, 2010.
- e) Second reading and adoption of **Ordinance 2010-08** to amend Chapter 15.60, Sections 15.60.010 through 15.60.070, implementing updates to the City of Visalia "Flood Damage Prevention Regulations" and renaming Chapter 15.60 to "Floodplain Management Regulations". These ordinance changes will accomplish the following: 1) Have floodplain management regulations that qualify and enhance the City's pending application to FEMA's Community Rating System (CRS). The City's participation in the CRS program will lead to discounted insurance rates for property owners within the City; 2) Maintain regulatory compliance with FEMA's National Flood Insurance Program (NFIP); and 3) Update and clarify current practices and procedures and clarify the City's role as floodplain administrator for the NFIP.
- f) Approval of the 2010/11 transit agreement with Tulare County.

REGULAR ITEMS AND PUBLIC HEARINGS - *Comments related to Regular Items and Public Hearing Items are limited to three minutes per speaker, for a maximum of 30 minutes per item, unless otherwise extended by the Mayor.*

- 6. Presentation by Visalia Police Chief Colleen Mestas and Tulare County Sheriff Bill Wittman on the proposed Tulare County Consolidated Explosive Ordinance Destruction MOU, followed by consideration by the City Council of approval of the MOU.

7. **Council to consider continuing this item to Monday, November 1 at the request of the applicant** - Appeal of the Planning Commission's denial of Conditional Use Permit No. 2010-09 and Variance No. 2010-04 filed by Verizon Wireless for a proposal to install a new 80 ft. telecommunications tower on property located on the north side of East Caldwell between South Stover Street and South Pinkham Street. **Resolutions 2010-__ and 2010-__ required.** *Continued from 9/7/10 and 10/4/10. Motion required to continue*
8. **PUBLIC HEARING** - Zoning Text Amendment No. 2010-07, an application by the City of Visalia to amend portions of Title 17 of the Visalia Municipal Code pertaining to Subdivision and Real Estate signs, amending Zoning Ordinance Section 17.48 and potential direction relating to the kiosk program. **Ordinance 2010-09 required (1st reading).**
9. Continue until Nov. 1, 2010 approval of one of the following options for Group G (Firefighters) for FY2010-2011:
 - a. Approval of a resolution regarding an MOU with terms and conditions of employment.
 - Or
 - b. Approval of **Resolution 2010-63** imposing the City's Last, Best and Final Offer.
10. Report on Senior Olympics by Council Member Gubler

CLOSED SESSION REPORT (if any)

Upcoming Council Meetings

- Monday, Oct. 25, 2010 - Adjourned Meeting. Visalia Convention Center - 4 p.m.
- Monday, Oct. 25, 2010 - Joint meeting with College of the Sequoias Board of Trustees, Visalia Unified School District Board of Trustees and Visalia City Council, Visalia Convention Center - 6:00 p.m.
- Monday, Nov. 1, 2010 - Visalia City Council, Visalia Convention Center - Work Session, 4 p.m.; Regular Session 7 p.m.

Note: Meeting dates/times are subject to change, check posted agenda for correct details.

In compliance with the American Disabilities Act, if you need special assistance to participate in meetings call (559) 713-4512 48-hours in advance of the meeting. For Hearing-Impaired - Call (559) 713-4900 (TDD) 48-hours in advance of the scheduled meeting time to request signing services.

Any written materials relating to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the Office of the City Clerk, 425 E. Oak Street, Visalia, CA 93291, during normal business hours.

The City's newsletter, *Inside City Hall*, is published after all regular City Council meetings. To self-subscribe, go to http://www.ci.visalia.ca.us/about/inside_city_hall_newsletter.asp. For more information, contact Community Relations Manager Nancy Loliva at nloliva@ci.visalia.ca.us.

City of Visalia Agenda Item Transmittal

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Consideration of a staff recommendation to move the City Council appointed Committee and Commission term beginning date to July 1, and ending date to June 30 of the appropriate year for the term being considered, and to extend all current terms to coincide with these dates.

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number:

Leslie Caviglia, Deputy City Manager, 713-4317
Donjia Huffmon, Chief Deputy City Clerk, 713-4512

Department Recommendation

It is recommended that the City Council adopt July 1 as the beginning date and June 30 as the ending date for all Council appointed Committee and Commission terms, and that the Council extend all current terms to coincide with these dates in the appropriate year for all seated Commission/Committee members.

Discussion

In October, 2008, the City Council made a number of changes to the Committee/Commission processes, including synchronizing the term ending and beginning dates for all City Council appointed Committees and Commissions. The dates recommended and approved were for the terms to begin on Jan. 1 and end on Dec. 30 of the appropriate year. In implementing this new policy last year for the first time, staff realized that there were two inherent problems. First, in an election year, the majority of the process occurs prior to the election, with the newly elected Council having only a final say in the appointments, but no time to have input if they wish to consider a new direction for a Committee/Commission, or the appointment process. In addition, part of the process occurs during the holiday time when there are many other obligations and messages occurring. Staff believes that conducting the entire application/selection procedure during the mid-year would provide for a smoother process.

The concept was discussed at the Committee/Commission meetings this fall, both changing the term dates, and the idea that Committee/Commission terms would be extended by six months. No objections to the plan were raised.

A copy of the Maddy List is attached. The Maddy List includes the names of all current Committee/Commission members, the number of terms they have served and their current term

For action by:

City Council
 Redev. Agency Bd.
 Cap. Impr. Corp.
 VPFA

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head LBC 10110

Finance

City Atty

City Mgr

expiration date. Committee members may serve up to 3 two-year terms. Commissioners can serve up to 4 two-year terms.

Prior Council/Board Actions:

October, 2008 – Council approved changes to the Committee/Commission terms and other related matters.

Committee/Commission Review and Actions:

Fall, 2010 – The recommendation was presented to the current Committees/Commissions. No objections were raised

Alternatives:

To leave the terms as currently approved - beginning Jan. 1 and ending Dec. 30

To approve a alternate set of term dates.

Attachments: Copy of the Maddy List with the names of the current Committee/Commission members and their term information

<p>Recommended Motion (and Alternative Motions if expected):</p> <p>Consideration of a staff recommendation to move the City Council appointed Committee and Commission term beginning date to July 1, and ending date to June 30 of the appropriate year for the term being considered, and to extend all current terms to coincide with these dates.</p>

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording:

Authorize addition of 33 acres consisting of four privately-owned parcels and right-of-way to the boundaries of the previously-initiated Visalia Annexation No. 2009-02 (West Goshen Ave). **Resolution 2010-__ required.**

The properties are located on the east and west sides of Road 88 between Goshen Avenue and 1,300 feet south of Goshen Avenue. (APN: 081-030-049, 070; 081-140-003, 006)

Deadline for Action: None

Submitting Department: Community Development Department /
Planning Division

Contact Name and Phone Number:

Chris Young, Community Development Director 713-4392
Brandon Smith, AICP, Senior Planner 713-4636

Recommendation: Staff recommends that the City Council authorize expanding the 81-acre "West Goshen Avenue" Annexation (No. 2009-02) originally initiated by City Council on August 2, 2010, by approximately 33 acres. If approved by Council, staff will revise the LAFCo application for annexation to add the four parcels and right-of-way to the area previously authorized by the City Council.

Summary: The objectives to adding this area to the annexation are:

- to prevent creation of a substantially-surrounded County island in the vicinity of West Goshen Avenue and Road 88;
- to proceed with an annexation that results in having all Goshen Avenue-fronting properties in the Industrial Park (from Road 76 to Shirk) under the jurisdictional control of the City.

On August 2, 2010, the City Council initiated an annexation of 71 acres mostly developed for industrial uses as recommended by staff. The City Council also initiated annexation of an adjacent 10-acre parcel based on a request made during the project's public hearing. The inclusion of the 10-acre parcel resulted in an annexation territory that formed a substantially-surrounded County island, which is justification for LAFCO to not favor the annexation. Staff has therefore revised the annexation boundaries to include the substantially-surrounded area, and is proceeding with the revised configuration which totals 114 acres of industrial-designated land. Based on additional City outreach, the annexation has commitment from property owners representing a majority of the assessed land valuation in the combined territory, meaning the annexation should be upheld during the LAFCO-conducted protest hearing. The annexation represents the City's best interests for proper land use and provision of services in accordance with the General Plan.

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.):_10_

Review:

Dept. Head cy 10-8
(Initials & date required)

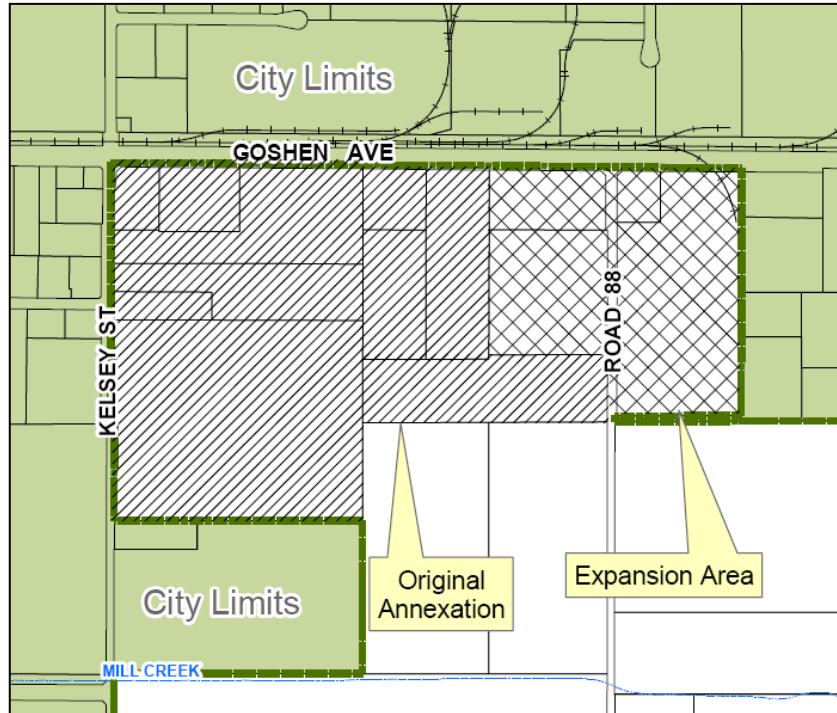
Finance n/a
City Atty n/a
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Site Description: The expansion area is adjacent and to the east of the 81-acre site which the City Council previously initiated for annexation. It consists of four privately-owned parcels and right-of-way along Goshen Avenue and Road 88. Existing City limits are located on the north and east sides of the expansion area. It is part of a larger County jurisdictional island that extends to Highway 198 and Shirk Street.

Land uses on the expansion area include a PVC pipe manufacturing plant (JM Eagle), a residence (which is owned and rented out by JM Eagle), a mini-storage facility (Glenn's Mini Storage), and vacant land which is being farmed. The area is surrounded on three sides by other industrial uses – warehouses, distribution centers, and shops. To the south is vacant / agricultural land which constitutes the upper edge of the open space area divided by Highway 198.



Outreach to Property Owners: Substantial outreach has been made to the JM-Eagle-owned properties following the initiation of the original annexation area on August 2, 2010. Specifically, City staff has participated in several email and phone conversations as well as one on-site meeting with a representative of the properties. The property is built out and is fully served by City infrastructure. Representatives of the property are not favorable to the payment of a City business license, but have been made aware of economic advantages and the full range of services gained by being in the City's jurisdiction. The plant was also assured that annexation would not affect their ability to continue operations. The plant has requested forms for consenting to the annexation, though staff has not received the completed forms at the time of the report's publishing.

Staff has been in contact with the remaining two property owners since initial outreach on the annexation began in April 2010. The property owners of the mini-storage facility generally object to the annexation because of the requirement of a business license. The property owner of the vacant land intends to continue farming operations on the site, but has not indicated support or opposition to the annexation.

The property owners of the expansion sites have been notified of the City's intent to annex.

Discussion:

Legal Non-Conforming Residence. The PVC pipe manufacturing plant and the residence will be annexed as legal non-conforming uses.

These uses are not permitted in the Light Industrial zone per the City Zoning Ordinance, but were legally established in the County's M-1 zoning designation. The continued use and operation of these legal non-conforming uses is provided for in the City's Zoning Ordinance Chapter 17.40, and will not be affected by the annexation.

Infrastructure. There are both sanitary sewer and storm drain lines in Goshen Avenue and a portion of Road 88. The sites which are developed for industrial use are directly connected to city sewer. The vacant property is not required to connect to city sewer at the time of annexation, but have the option of connecting at any time at their own cost.

Williamson Act. There are no Williamson Act contracts on any parcels in the annexation.

Relation to General Plan and Zoning: The property has a General Plan Land Use Designation of Light Industrial, and will therefore come into the City limits under the I-L (Light Industrial) Zoning upon annexation. The site has been in the Urban Development Boundary since the 1991 General Plan Land Use Element Update.

County Zoning. All properties currently have a Tulare County zoning designation of M-1 (Light Manufacturing). The M-1 zoning allows most uses permitted in the City's I-L zone, but also allows for several commercial and other non-industrial uses that are not permitted in the I-L zone. The properties have a General Plan Land Use Designation of Light Industrial (A resolution approved by the County in 1992 allowed the County's General Plan designations to be consistent with the City's General Plan designations for properties inside the UDB.)

Environmental Findings: An Initial Study was prepared for the Annexation consistent with the California Environmental Quality Act (CEQA). The Initial Study disclosed that environmental impacts are determined to be not significant, and a Negative Declaration was prepared. The Initial Study and Negative Declaration was prepared to consider annexation of all properties, including those that were in the original annexation area and those in the expansion area. The City Council certified the Initial Study and Negative Declaration on August 2, 2010 via Resolution No. 2010-48.

Prior Council/Board Actions: None.

Committee/Commission Review and Actions: None.

Alternatives: None.

Attachments:

- Resolution
- City Council report from August 2, 2010
- **Aerial Photo (Colored map)**
- **General Plan Land Use Map (Colored map)**

Recommended Motion (and Alternative Motions if expected):

I move to authorize addition of 33 acres consisting of four privately-owned parcels and right-of-way to the boundaries of the previously-initiated Visalia Annexation No. 2009-02 (West Goshen Avenue).

Environmental Assessment Status

CEQA Review: An Initial Study and Negative Declaration were certified on August 2, 2010.

NEPA Review: None

Tracking Information: *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

RESOLUTION NO. 2010-____

A RESOLUTION OF APPLICATION BY THE CITY OF
VISALIA REQUESTING THE TULARE COUNTY LOCAL
AGENCY FORMATION COMMISSION TO TAKE PROCEEDINGS
FOR ANNEXATION NO. 2009-02 (WEST GOSHEN AVENUE) AND DETACHMENT OF
PROPERTY FROM COUNTY SERVICE AREA NO. 1

WHEREAS, the City Council of the City of Visalia desires to initiate proceedings for annexation to said city of territory illustrated on the location map attached herein as Exhibit "A" which includes territory originally initiated by the City Council on August 2, 2010, and territory added by the City Council on October 18, 2010; and

WHEREAS, the City Council of the City of Visalia desires to annex said territory to the City of Visalia for the following reasons: The annexation will contribute to and facilitate orderly growth and development of both the City and the territory proposed to be annexed; will facilitate and contribute to the proper and orderly layout, design and construction of streets, gutters, sanitary and storm sewers and drainage facilities, both within the City and within the territory proposed to be annexed; and will provide and facilitate proper overall planning and zoning of lands and subdivision of lands in said City and said territory in a manner most conducive of the welfare of said City and said territory; and

WHEREAS, this proposal is made pursuant to the Cortese-Knox-Hertzburg Local Government Reorganization Act of 2000, commencing with Section 56000 of the Government Code of the State of California; and

WHEREAS, the territory proposed to be annexed is uninhabited; and

WHEREAS, the City Council hereby makes the following findings with regard to the project:

1. The annexation is consistent with the policies and intent of the General Plan.
2. An Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and Negative Declaration No. 2010-041 was adopted by the Council pursuant to City Resolution No. 2010-48 for the entire annexation territory.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Visalia as follows:

1. The potential environmental effects of the proposed annexation have been reviewed and the Environmental Coordinator of the City of Visalia has determined that the proposal falls within the scope of issues and impacts addressed in Negative Declaration No. 2010-041, and that no mitigation measures are required.
2. Application is hereby made to the Executive Officer of the Local Agency Formation Commission, County of Tulare, State of California, for an annexation of territory illustrated in the map attached as Exhibit "A".

3. Proceedings shall be taken for this annexation proposal pursuant to Title 5, Division 3, Part 3 of the California Government Code and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
4. In conjunction with the proceedings being taken for this annexation proposal, application is also hereby being made to the Executive Officer of the Local Agency Formation Commission, County of Tulare, State of California, for a Sphere of Influence Amendment and detachment from County Service Area No. 1.
5. Upon annexation, the territory shall be zoned Light Industrial (I-L), consistent with the pre-zoning designated by the General Plan Land Use Map, although ongoing use of the property for agricultural, residential, and other uses established in County but not provided for in the Visalia Municipal, shall be permitted as a legal non-conforming use, in accordance with the Code.
6. The City Clerk of the City of Visalia is authorized and directed to file a certified copy of this resolution with the Executive Officer of Tulare County LAFCO.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Appointment of Rick Jones, George Curtis, Carlos Estrada, Trilby Barton and Linda Denny as Disability Advocacy Committee Members effective November, 2010.

Deadline for Action: N/A

Submitting Department: Community Development

Contact Name and Phone Number: Chris Young, Community Development Director 713-4392

Department Recommendation: Department staff recommends that the Visalia City Council appoint Rick Jones, George Curtis, Carlos Estrada, Trilby Barton and Linda Denny to the Disability Advocacy Committee as voting members. This committee currently has five voting member vacancies.

Summary/background:

The Disability Advocacy Committee is a seven member Advisory Committee to the City Council who represents issues and concerns of the disabled community.

The applications were reviewed and recommendations made to the Citizens Advisory Committee. The department recommendation is reflective of the selections.

On October 6, 2010 the Citizens Advisory Committee reviewed the recommendation of the Disability Advocacy Committee and unanimously approved their recommendation.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Citizens Advisory Committee – October 6, 2010

This document last revised: 10/15/10 8:42:00 AM

File location and name: H:\(1) AGENDAS for Council - DO NOT REMOVE\2010\10-18-2010\Item 5d - Disability Advocacy Committee Appointments.doc

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 3

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Alternatives:

Attachments: Applications for Rick Jones, George Curtis, Carlos Estrada, Trilby Barton, and Linda Denny.

Recommended Motion (and Alternative Motions if expected): City Council hereby appoints Rick Jones, George Curtis, Carlos Estrada, Trilby Barton and Linda Denny to the Disability Advocacy Committee as voting members effective November, 2010.

Environmental Assessment Status

CEQA Review:

NEPA Review:

Tracking Information: *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Second Reading and Adoption of Ordinance No.2010-08 to amend Chapter 15.60, Sections 15.60.010 through 15.60.070, implementing updates to the City of Visalia "Flood Damage Prevention Regulations" and renaming Chapter 15.60 to "Floodplain Management Regulations". These ordinance changes will accomplish the following:

- 1) Have floodplain management regulations that qualify and enhance the City's pending application to FEMA's Community Rating System (CRS). The City's participation in the CRS program will lead to discounted insurance rates for property owners within the City.
- 2) Maintain regulatory compliance with FEMA's National Flood Insurance Program (NFIP).
- 3) Update and clarify current practices and procedures and clarify the City's role as floodplain administrator for the NFIP.

Deadline for Action: N/A

Submitting Department: Community Development Department/
Engineering Division

Contact Name and Phone Number:
Chris Young, Community Development Director, 713-4392
Doug Damko, Senior Civil Engineer, 713-4268

For action by:
 City Council
 Redev. Agency Bd.
 Cap. Impr. Corp.
 VPFA

For placement on which agenda:
 Work Session
 Closed Session

Regular Session:
 Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Recommendation: Staff recommends that Council approve the second reading and adopt Ordinance No.2010-08 to amend Chapter 15.60, Sections 15.60.010 through 15.60.070, implementing updates to the City of Visalia "Flood Damage Prevention Regulations" and renaming Chapter 15.60 to "Floodplain Management Regulations" as shown in Exhibits A and B. This second reading and adoption of Ordinance No.2010-08 constitutes the final passage of the amendments to Chapter 15.60.

Summary: Staff recommends the implementation of these updates to our floodplain management regulations in order to accomplish the following three main goals:

- 1) Have floodplain management regulations that qualify and enhance the City's pending application to FEMA's Community Rating System (CRS). The City's participation in the CRS program will lead to discounted insurance rates for property owners within the City.
- 2) Maintain regulatory compliance with FEMA's National Flood Insurance Program (NFIP).
- 3) Update and clarify current practices and procedures and clarify the City's role as floodplain administrator for the NFIP.

Subsequent to Council's approval of the introduction and first reading of Ordinance 2010-08, staff has determined that some additional language should be added to Section 15.60.010A "Statutory Authorization". This additional language identifies that our floodplain management regulations are based on compliance with the requirements for floodplain management established by FEMA in Title 44, Chapter 1, Part 60, Subpart A of the Code of Federal Regulations. This additional language provides a clear reference to the federal regulations that are the basis of compliance for our local floodplain management regulations. This additional language only provides clarification and does not add any additional requirements to the ordinance. This additional language has been reviewed by and is acceptable to the City Attorney's Office. This additional language is located on Page 1 of Exhibit B and is highlighted in bold and italics.

Background: On October 4, 2010, Council approved the introduction and first reading of Ordinance 2010-08 to amend Chapter 15.60, Sections 15.60.010 through 15.60.070, implementing updates to the City of Visalia "Flood Damage Prevention Regulations" and renaming Chapter 15.60 to "Floodplain Management Regulations" as shown in Exhibits A and B.

FEMA has required that the City update its existing floodplain management regulations, which are located in Chapter 15.60 of the Municipal Code. With this update, this chapter will be given the short title of "City of Visalia Floodplain Management Ordinance" (FMO). The requirement for this update has come about because of a Community Assistance Visit (CAV) conducted on August 27, 2009 by DWR on behalf of FEMA. The purpose for this visit is for FEMA to evaluate the City on its administration of our FMO under their National Flood Insurance Program (NFIP). FEMA conducts CAVs on a 5-year review cycle. The City received a CAV report on October 28, 2009 and this report listed specific required changes to the City's FMO. Subsequent communication with FEMA and DWR resulted in some additional required changes and some recommended changes. City staff also performed an extensive review of the FMO and identified changes needed to improve the internal consistency of language and to add language that better describes the hydrological conditions of the City.

Prior Council/Board Actions:

- On June 4, 1984, Council adopted Ordinance No. 8412 amending the Municipal Code by adding flood damage prevention regulations.
- On April 6, 1987, Council adopted Ordinance No. 8711 repealing the existing flood damage prevention regulations and adopting new flood damage prevention regulations.
- On October 5, 1998, Council adopted Ordinance No. 9816 repealing the existing flood damage prevention regulations and adopting new flood damage prevention regulations.
- On October 4, 2010, Council approved the introduction and first reading of Ordinance No. 2010-08 to amend Chapter 15.60 of the Municipal Code implementing updates to the City of Visalia "Flood Damage Prevention Regulations" and renaming Chapter 15.60 to "Floodplain Management Regulations".

Committee/Commission Review and Actions: None

Alternatives: None recommended

Attachments:

Exhibit A - Ordinance 2010-08

Exhibit B – strike and underline version of Chapter 15.60

Recommended Motion (and Alternative Motions if expected):

I move to approve the second reading and adopt Ordinance No.2010-08 to amend Chapter 15.60, Sections 15.60.010 through 15.60.070, implementing updates to the City of Visalia "Flood Damage Prevention Regulations" and renaming Chapter 15.60 to "Floodplain Management Regulations".

Environmental Assessment Status

CEQA Review:

NEPA Review:

Tracking Information: *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

Copies of this report have been provided to:

Exhibit A

ORDINANCE NUMBER 2010-08

AN ORDINANCE AMENDING CHAPTER 15.60, SECTIONS 15.60.010 THROUGH 15.60.070, IMPLEMENTING UPDATES TO THE CITY OF VISALIA “FLOOD DAMAGE PREVENTION REGULATIONS” AND RENAMING CHAPTER 15.60 TO “FLOODPLAIN MANAGEMENT REGULATIONS”

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: Consistent with the authority of the Charter of the City of Visalia and the statutes of the State of California, the City Council of the City of Visalia hereby enacts updates to the Flood Damage Prevention Regulations.

Section 2: Chapter 15.60, Sections 15.60.010 through 15.60.070, of the Visalia Municipal Code is hereby amended as indicated in Exhibit A, attached hereto and incorporated herein.

Section 3: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not effect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 4: Construction. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section 5: Effective Date. This Ordinance shall take effect thirty days after its adoption.

Section 6: Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED:

BOB LINK, MAYOR

ATTEST:

STEVEN M. SALOMON, CITY CLERK

APPROVED BY CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Ordinance 2010-08 passed and adopted by the Council of the City of Visalia at a regular meeting held on _____, 2010 and certify a summary of this ordinance has been published in the Visalia Times Delta.

Dated:

STEVEN M. SALOMON, CITY CLERK

By Donjia Huffmon CMC, Chief Deputy

Exhibit A

Chapter 15.60

FLOODPLAIN MANAGEMENT REGULATIONS

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15.60.010 Statutory authorization, short title, 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 government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City does adopt the following floodplain management regulations in compliance with the requirements for floodplain management established by the Federal Emergency Management Agency in Title 44, Chapter 1, Part 60, Subpart A of the Code of Federal Regulations.

B. Short Title. This chapter shall be known and may be cited as the "City of Visalia Floodplain Management Ordinance."

C. Findings of Fact.

1. The flood hazard areas of the City are subject to periodic inundation which may result 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 obstruction in special flood hazard areas, which increase flood heights and velocities, may also contribute to the flood loss.

D. 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 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 events 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 special flood hazard areas;
6. Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is located in a special flood hazard area; and
8. Ensure that those who occupy properties located in special flood hazard areas assume responsibility for their actions.

E. Methods of Reducing Flood Losses. In order to accomplish its purpose, this chapter includes regulations to:

1. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards;
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 floodwaters;
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 floodwaters or which may increase flood hazards in other areas. (Ord. 9816 (part), 1998: prior code § 7192)

15.60.020 Definitions.

Unless specifically defined below, 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.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this chapter.

“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. The City is predominately an area of shallow flooding with a designated AE zone on the FIRMs. There are select areas that are depressed where the base flood depths exceed three feet. These areas are public spaces and do not contain structures.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Base flood elevation” (BFE) means the elevation shown on the FIRMs for Zone AE that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

“Breakaway walls” means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are so designed as to break away, under abnormal water action without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty (20) pounds per square foot. Use of breakaway walls shall 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.

“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 located within a special flood hazard area.

“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.

“Existing manufactured home park or subdivision” means parcel (or contiguous parcel) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is 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 original effective date of this chapter on July 5, 1984.

“Expansion to an existing manufactured home park or manufactured home 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, either final site grading or pouring of concrete pads, or the construction of streets).

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Maps (FIRMs)” means the official maps on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zone applicable to the community.

“Flood Insurance Study (FIS)” means the official report provided by the FEMA that includes flood profiles, the FIRMs, and the water surface elevations of the base flood.

“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 chapter 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.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source (see “Flood”).

“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

property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins 2-08, 3-93, and 7-93.

“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.

“Fraud and victimization” as related to the variance procedures of Section 15.60.060, means that the variance 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 BFE 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.

“Governing body” is the local governing unit that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

“Hardship” as related to the variance procedures of Section 15.60.060, means the exceptional hardship that would result from a failure to grant the requested variance. The City 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 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 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.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to development next to the proposed walls of a structure.

“Historic structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

“Inactive alluvial fan flooding” means flooding that is similar to traditional riverine flood hazards, but occurs only on alluvial fans. It is characterized by flow paths with a higher degree of certainty in realistic assessments of flood risk or in the reliable mitigation of the hazard. Inactive alluvial fan flooding hazard is characterized by relatively stable flow paths. Areas of inactive alluvial fan flooding, may be subject to sediment deposition and erosion, but to a degree that does not cause flow path instability and uncertainty.

“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 accordance with sound engineering practices.

“Lowest floor” means the lowest floor of the lowest enclosed area, including basement (see “Basement”).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access, building crawlspace or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, it conforms to applicable nonelevation design requirements, including, but not limited to:
 - a. The anchoring standards in Section 15.60.050A1;
 - b. The construction materials and methods standards in Section 15.60.050A2;
 - c. The flood openings standard in Section 15.60.050A3c;
 - d. The crawlspace construction standards in Section 15.60.050A3e;

e. The standards for utilities in Section 15.60.050B.

“Manufactured home” means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a recreational vehicle, except for travel trailers, park trailers, and similar vehicles placed on a site for greater than one hundred eighty (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 rent or sale.

“Market value” shall be determined by estimating the cost to replace the structure in new condition (land value deducted) 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, 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. The owner of the structure is responsible to determine the market value and submit a report thereof to the floodplain administrator for review and acceptance.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community’s FIRMs are referenced.

“New construction”, for floodplain management purposes, means structures for which the “start of construction” commenced on or after the original effective date of this chapter on July 5, 1984, and includes any subsequent improvements to such structures.

“New 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, or installed on foundations on or after the original effective date of this chapter on July 5, 1984.

“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, snare or collect debris carried by the flow of water, or is likely to be carried downstream.

“One-Hundred-Year-Flood” or “100-Year Flood.” See “Base flood.”

“Public safety and nuisance” as related to the variance procedures of Section 15.60.060, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community, neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal or basin.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

“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.

“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 this chapter 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 in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on a FIRM as Zone A, AO, A1 A30, AE, A99, or, AH.

“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 one hundred eighty (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 slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. 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 as 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. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or subdivision, start of construction means the affixing of the manufactured home to its permanent site. For manufactured homes within manufactured home parks or subdivisions start of construction is the date on which the placement of the manufactured home on a foundation takes place.

“Structure” means a walled and roofed building or manufactured home that is principally above ground; this includes a gas or liquid storage tank or 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 fifty (50) percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. If multiple or phased improvements are involved, said total costs shall be cumulative for a 5 consecutive year period prior to the start of construction. Substantially improved structures are considered new construction and shall meet all the provisions of this chapter for new construction. 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;
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 this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter 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, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“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. (Ord. 9816 (part), 1998: prior code § 7193)

15.60.030 General provisions.

A. Lands to Which this Chapter Applies. This chapter shall apply to all special flood hazard areas within the jurisdiction of the City.

B. Basis for Establishing the Special Flood Hazard Areas. The special flood hazard areas identified by FEMA in the FIS and accompanying FIRMs dated June 16, 2009 and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City by the floodplain administrator. The FIS and accompanying FIRMs are on file at City Hall, 315 E. Acequia Avenue, Visalia, California.

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 established in connection with conditions) shall constitute a misdemeanor. Nothing in this chapter shall prevent the City 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 man-made or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, any officer or employee thereof, or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

G. Severability. This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any portion thereof, other than the section so declared to be unconstitutional or invalid. (Ord. 9816 (part), 1998: prior code § 7194)

15.60.040 Administration.

A. Establishment of Development Permit. A development permit shall be obtained before any construction, or other development including manufactured homes, begins within any special flood hazard area established in Section 15.60.030B. The applicant for a development permit shall submit such application on application forms furnished by the City. The applicant shall provide the following minimum information during the course of applying and completing the development permit:

1. During the application process, provide three sets of plans, 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. BFE information as shown on the FIRMs referenced in Section 15.60.030B.

- e. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 - f. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed as required in Section 15.60.050A3b of this chapter and detailed in FEMA Technical Bulletin 3-93.
 - g. For a structure with a crawlspace foundation, proposed locations and total net area of flood openings as required in Section 15.60.050A3e of this chapter and detailed in FEMA Technical Bulletins 1-08 and 7-93.
- 2. During the application process, provide a description of the extent to which any watercourse will be altered or relocated as a result of the development permit.
 - 3. During the permit issuance and inspection process, provide preliminary certification from a registered professional engineer or land surveyor of the proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all residential structures.
 - 4. Prior to requesting a final occupancy of the structure, provide the following certifications as applicable:
 - a. Certification required by Section 15.60.050A3a (lowest floor elevations);
 - b. Certification required by Section 15.60.050A3b (elevation or floodproofing of nonresidential structures);
 - c. Certification required by Section 15.60.050A3c (flood openings);
- B. Designation of the Floodplain Administrator. The Chief Building Official or authorized designee agent acting in the official's behalf is appointed to administer, implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions.
 - C. Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the floodplain administrator shall include, but not be limited to:
 - 1. Permit Review.
 - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
 - b. All other required state and federal permits have been obtained;
 - c. The site is reasonably safe from flooding;
 - d. The proposed development does not adversely affect the carrying capacity of areas where BFEs have been determined but a floodway has not been designated. This adverse affect on carrying capacity shall be determined by the analysis required in Section 15.60.050F1.

2. Review, Use and Development of Other Base Flood Data. When BFE data is not available per Section 15.60.030B, the floodplain administrator shall obtain, review and reasonably utilize any flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 15.60.050. The floodplain administrator shall require that BFEs 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.

3. 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 FEMA; and

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

b. BFE changes due to physical alterations:

i. 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).

ii. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits shall 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. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:

a. Certification required by Section 15.60.050A3a (lowest floor elevations);

b. Certification required by Section 15.60.050A3b (elevation or floodproofing of nonresidential structures);

c. Certification required by Section 15.60.050A3c (flood openings);

d. Certification of elevation required by Section 15.60.050C1 (subdivisions and other residential development);

e. Maintain a record of all variance actions, including justification for their issuance.

5. Map Determinations. Make interpretations where needed as to the exact location of the boundaries of the special flood hazard areas; 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 15.60.070.

6. Remedial Action. Take action to remedy violations of this chapter as specified in Section 15.60.030C.

7. Non-conversion of Enclosed Areas Below the Lowest Floor. To ensure that the areas below the 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 5 feet or higher; and

b. Require the applicant to enter into a "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS" or equivalent with the city. The agreement shall be recorded with the Tulare County Recorder as a deed restriction. The non-conversion agreement shall be in a form acceptable to the floodplain administrator and city attorney; and

c. Have the authority to inspect any area of a structure below the BFE to ensure compliance upon prior notice of at least 72 hours.

(Ord. 9816 (part), 1998: prior code § 7195)

15.60.050 Provisions for flood hazard reduction.

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

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All manufactured homes shall meet the anchoring standards of Section 15.60.050D1.

2. Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

- a. With materials, which are located below the BFE, that are flood damage resistant per FEMA Technical Bulletin 2-08; and
- b. Using methods and practices that minimize flood damage; and
- c. With mechanical, electrical and plumbing systems and other service systems that are either elevated above the BFE if possible or, if below the BFE, designed to prevent water from entering or accumulating within the system components during conditions of flooding per FEMA 348.

3. Elevation and Floodproofing. (See Section 15.60.020, definitions for “Basement,” “Lowest floor,” “New construction,” “Substantial damage” and “Substantial improvement.”)

a. Residential construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- i. In an AE Zone, elevated to or above the BFE.
- ii. In an A zone, without BFE’s specified on the FIRM [unnumbered A zone], elevated to or above the BFE; as determined under Section 15.60.040C2.

iii. Certified by a registered professional engineer or land surveyor, and verified by the City building inspector, to be properly elevated prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator.

b. Nonresidential construction. All new or substantial improvements of nonresidential structures shall either be elevated to conform with Section 15.60.050A3a or together with attendant utility and sanitary facilities:

i. Be floodproofed to one foot above the BFE so that the structure is watertight with walls substantially impermeable to the passage of water and eligible to receive an insurance rate equivalent to a building with its lowest floor elevated to the BFE;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

iii. Be certified by a registered professional engineer or architect, and verified by the City building inspector, that the floodproofing requirements of this Section 15.60.050A3b are satisfied prior to issuance of final occupancy of the structure. 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, building crawlspace or storage, and which are subject to flooding, shall:

- i. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater.
- ii. Be designed to provide a minimum of two openings on different exterior walls 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. Buildings with more than one enclosed area shall have two openings on different exterior walls for each enclosed area to allow the automatic entry and exit of floodwater in each enclosed area.
- iii. Be certified by a registered professional engineer or architect, and verified by the City building inspector, that the flood openings requirements of this Section 15.60.050A3c are satisfied prior to issuance of the final inspection of the structure. Such certification shall be provided to the floodplain administrator.
- d. Manufactured homes shall meet the standards in Section 15.60.050D.
- e. Crawlspace Construction. This sub-section applies to buildings with crawlspaces up to 2 feet below grade. Below-grade crawlspace construction that is done in accordance with the requirements listed below will not be considered to be a basement.
 - i. Crawlspace construction shall be done per the guidance provided in FEMA Technical Bulletin 11-01.
 - ii. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawlspace construction is not allowed at sites with flood velocities greater than 5 feet per second and other foundation types should be used;
 - iii. The crawlspace is a fully enclosed area below the BFE and, as such, shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. For guidance on flood openings, see FEMA Technical Bulletin 1-08;
 - iv. Crawlspace construction is not permitted in V zones. Open pile or column foundations that withstand storm surge and wave forces are required in V zones;
 - v. Portions of the building below the BFE shall be constructed with materials that are flood damage resistant per FEMA Technical Bulletin 2-08. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE; and

vi. Any mechanical, electrical and plumbing systems located within the crawlspace shall be elevated above the BFE if possible or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions per FEMA 348.

vii. Requirements for all below-grade crawlspace construction, in addition to the above requirements, to include the following:

(a) The interior grade of a crawlspace below the BFE shall not be more than 2 feet below the lowest adjacent exterior grade (LAG), shown as D in figure 3 of Technical Bulletin 11-01;

(b) The height of the below-grade crawlspace, measured from the interior grade of the crawl space to the top of the crawlspace foundation wall shall not exceed 4 feet (shown as L in figure 3 of Technical Bulletin 11-01) at any point; and

(c) There shall be an adequate drainage system that removes floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event, not to exceed 72 hours.

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from 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 Residential Development.

1. All new subdivisions proposals and other proposed residential development, including proposals for manufactured home parks and subdivisions, greater than 10 lots or 3 acres, whichever is the lesser, shall:

a. Identify the location of the SFHA and label the BFE lines on the record map.

b. Identify the elevations of lowest floors of all proposed structures and pads on the record map and construction plans.

c. Place fill to raise the pads for the structures to or above the BFE. The following as-built information shall be certified by a registered civil engineer or licensed land surveyor and included as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to FEMA:

i. Lowest lot elevation or pad elevation.

ii. Lowest adjacent grade to structure. (for cases with existing structures)The application for the LOMR-F shall be submitted to the floodplain administrator for review prior to submission to FEMA. The floodplain administrator shall complete the community acknowledgement form (FEMA Form 81-87B) for inclusion with the application.

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

3. All subdivision proposals and other proposed residential development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

4. All subdivision proposals and other proposed residential development shall provide adequate drainage to reduce exposure to flood hazards and shall comply with the provisions of Section 15.60.050F1.

D. Standards for Manufactured Homes.

1. All manufactured homes that are placed or substantially improved, 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 upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

a. Within Zone AE on the community's FIRMs, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the BFE and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b. Be certified by a registered professional engineer or land surveyor, and verified by the City or State building inspector, that the lowest floor (including basement) is properly elevated prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator.

2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zone AE on the community's FIRMs that are not subject to the provisions of Section 15.60.050D1 shall:

a. Be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; and

b. Be elevated so that either:

i. The lowest floor of the manufactured home is at or above the BFE; or

ii. The chassis of the manufactured home 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.

c. Be certified by a registered professional engineer or land surveyor, and verified by the City or State building inspector, that the lowest floor (including basement) is properly elevated

prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator.

E. Standards for Recreational Vehicles.

1. All recreational vehicles placed on sites within Zone AE on the community's FIRMs will either:

a. Be on the site for fewer than one hundred eighty (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

b. Meet the permit requirements of Section 15.60.040 and the elevation and anchoring requirements for manufactured homes in Section 15.60.050D2.

F. Regulatory Floodways. FEMA has stated in the FIS that the City is characterized as an urbanized, inactive alluvial fan system, which consists of highly trained creeks and irrigation channels. This system of creeks and channels does not have the capacity to contain the base flood and therefore the establishment of regulatory floodways is not possible. The resulting flooding from the base flood consists of areas of shallow flooding with overland flows characterized by relatively stable flow paths through the community with flow velocities ranging from 0.5 to 2.0 feet per second. This velocity range of the flood flows is considered low and not extremely hazardous; therefore, the following provisions apply:

1. New construction, substantial development, or other development (including fill) shall be permitted within Zone AE when 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 1 foot at any point within the City, or alternatively, it is demonstrated: (1) that the proposed development does not substantially increase the water surface elevation of the base flood within the vicinity of the proposed development, and (2) the proposed development is designed to allow the flow of the base flood to substantially pass through. This analysis shall be done under the direction of the floodplain administrator and upon satisfactory completion shall be prepared into a report to be accepted by the floodplain administrator.

2. If Section 15.60.050F1 is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 15.60.050. (Ord. 9816 (part), 1998: prior code § 7196)

15.60.060 Variance procedures.

The variance criteria set forth in this section 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.

A. Conditions for Variances. Generally, variances may be issued for new construction and substantial improvements 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 BFE, providing the procedures of Sections 15.60.040, 15.60.050 and 15.60.070B1-11 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 of historic structures (as defined in Section 15.60.020) 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 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, 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 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.

E. Variances shall only be issued upon:

1. Receipt of a written request for variance from the owner of record, stating the conditions that constitute an extreme hardship;

2. A showing of good and sufficient cause such as renovation, rehabilitation or reconstruction. Variances issued for economic considerations, aesthetic, or because variances have been used in the past, are not good and sufficient cause;

3. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

4. 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, cause fraud on or victimization to the public, or conflict with existing local laws or ordinances.

F. 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 BFE will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and

2. Such construction below the BFE 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 Tulare County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land).

G. 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 Section 15.60.060A-E 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.

H. Upon consideration of the factors of this section and the purpose of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.

I. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the FEMA upon request. (Ord. 9816 (part), 1998: prior code § 7196.1)

15.60.070 Board of appeals.

In order to determine if an error in any requirements, decision or determination by the floodplain administrator has been made and to provide for reasonable interpretations of this chapter, there shall be and is created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. Request for appeal shall be made in writing to the floodplain administrator on forms available at City Hall, 315 E. Acequia Avenue, Visalia, California. The floodplain administrator shall be an ex-officio member of and shall act as secretary to the board. The board of appeals shall be appointed by the city council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business

and shall render all decisions and findings in writing to the appellant with a duplicate copy to the floodplain administrator.

A. Those aggrieved by the decision of the appeal board or any taxpayer, may appeal such decision to the civil court as provided in the state law.

B. In passing upon such application, the appeal board shall consider all technical evaluations, all relevant factors, standards, etc., specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to 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;
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 uses that 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 times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges. (Ord. 9816 (part), 1998: prior code § 7196.2)

Exhibit B

Chapter 15.60

FLOODPLAIN MANAGEMENT ~~DAMAGE PREVENTION~~ REGULATIONS

Sections:

15.60.010 Statutory authorization, short title, findings of fact, purpose and methods.

15.60.020 Definitions.

15.60.030 General provisions.

15.60.040 Administration.

15.60.050 Provisions for flood hazard reduction.

15.60.060 Variance procedures.

15.60.070 Board of appeals.

15.60.010 Statutory authorization, short title, 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 government units authority to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the eCity does adopt the following floodplain management regulations **in compliance with the requirements for floodplain management established by the Federal Emergency Management Agency in Title 44, Chapter 1, Part 60, Subpart A of the Code of Federal Regulations.**

B. Short Title. This chapter shall be known and may be cited as the “City of Visalia Floodplain Management Ordinance.”

BC. Findings of Fact.

1. The flood hazard areas of the eCity are subject to periodic inundation which may 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 obstruction in ~~areas of special flood hazards~~ areas, which increase flood heights and velocities, may also contribute to the flood loss.

CD. 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 provisions designed to:

1. ~~To p~~Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. ~~To m~~Minimize the need for rescue and relief efforts associated with ~~periodic~~ flooding events 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 special flood hazard areas~~To minimize potential property losses in flood hazard areas;~~
6. Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize future blighted areas caused by flood damage;
7. ~~To i~~Ensure that potential buyers are notified that property is located in a special flood hazard area; and
8. ~~To i~~Ensure that those who occupy properties located in special flood hazard areas assume responsibility for their actions.

DE. Methods of Reducing Flood Losses. In order to accomplish its purpose, this chapter includes ~~methods and provisions for~~regulations to:

1. ~~Restricting or prohibiting~~ uses which are dangerous to health, safety and property due to water or erosion hazards;
2. ~~Requireing~~ 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 floodwaters;
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 floodwaters or which may increase flood hazards in other areas. (Ord. 9816 (part), 1998: prior code § 7192)

15.60.020 Definitions.

Unless specifically defined below, 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.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this chapter.

“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. The City is predominately an area of shallow flooding with a designated AE zone on the FIRMs. There are select areas that are depressed where the base flood depths exceed three feet. These areas are public spaces and do not contain structures.

~~—“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area is designated as Zone A, AO and AH on the FIRM.~~

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.

“Base flood elevation” (BFE) means the elevation shown on the FIRMs for Zone AE that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

“Breakaway walls” means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are so designed as to break away, under abnormal water action without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty (20) pounds per square foot. Use of breakaway walls ~~must~~shall 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.

“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 located within ~~the area of a~~ special flood hazard area.

“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.

“Existing manufactured home park or subdivision” means parcel (or contiguous parcel) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is 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 original effective date of this chapter on July 5, 1984.

“Expansion to an existing manufactured home park or manufactured home 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, either final site grading or pouring of concrete pads, or the construction of streets).

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Maps (FIRMs)” means the official maps on which the Federal Emergency Management Agency (FEMA) Insurance Administration has delineated both the ~~areas of special flood hazard~~ areas and the risk premium zone applicable to the community.

“Flood Insurance Study (FIS)” means the official report provided by the ~~Federal Emergency Management Agency~~ FEMA that includes flood profiles, the FIRMs, and the water surface elevations of the base flood.

“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 chapter 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.

“Floodplain or flood-prone area” means any land area susceptible to being inundated by water from any source (see “Flood”).

“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to ~~nonresidential or residential~~ structures which reduce or eliminate flood damage to real estate or improved property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins 2-08, 3-93, and 7-93.

“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.

~~“Floodway fringe” is that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.~~

“Fraud and victimization” as related to the variance procedures of Section 15.60.060-1. ~~Variance procedures~~ means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the ~~e~~City of Visalia 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~~ BFE 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.

“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.

“Hardship” as related to the variance procedures of Section 15.60.060, Variance procedures means the exceptional hardship that would result from a failure to grant the requested variance. The eCity of Visalia 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 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 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.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to development next to the proposed walls of a structure.

“Historic structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

“Inactive alluvial fan flooding” means flooding that is similar to traditional riverine flood hazards, but occurs only on alluvial fans. It is characterized by flow paths with a higher degree of certainty in realistic assessments of flood risk or in the reliable mitigation of the hazard. Inactive alluvial fan flooding hazard is characterized by relatively stable flow paths. Areas of inactive alluvial fan flooding, may be subject to sediment deposition and erosion, but to a degree that does not cause flow path instability and uncertainty.

“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 accordance with sound engineering practices.

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

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

~~a.~~ The wet floodproofing standard in Section 15.60.050A3c;

~~b.~~ The anchoring standards in Section 15.60.050A1;

~~c.~~ The construction materials and methods standards in Section 15.60.050A2;

c. The flood openings standard in Section 15.60.050A3c;

d. The crawlspace construction standards in Section 15.60.050A3e;

~~e.~~ The standards for utilities in Section 15.60.050B.

~~2.~~ For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement"). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle, except for travel trailers, park trailers, and similar vehicles placed on a site for greater than one hundred eighty (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 rent or sale.

"Market value" shall be determined by estimating the cost to replace the structure in new condition (land value deducted) 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, 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. The owner of the structure is responsible to determine the market value and submit a report thereof to the floodplain administrator for review and acceptance.

“Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which ~~base flood elevation~~ BFEs shown on a community’s Flood Insurance Rate Map (FIRMs) are referenced.

“New construction”, for floodplain management purposes, means structures for which a ~~building permit was issued and the~~ “start of construction” commenced ~~within one hundred eighty (180) days on or after the issuing of permits and the~~ original effective date of this chapter on July 5, 1984, and includes any subsequent improvements to such structures.

“New 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, or installed on foundations on or after the original effective date of this chapter on July 5, 1984.

“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, snare or collect debris carried by the flow of water, or is likely to be carried downstream.

“One-Hundred-Year-Flood” or “100-Year Flood.” See “Base flood.”

“Public safety and nuisance” as related to the variance procedures of Section 15.60.060, ~~Variance procedures~~, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community, neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal or basin.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"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.

"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 this chapter 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 in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on a FIRM as Zone A, AO, A1 A30, AE, A99, or, AH, having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, E, M, V1-V30, VE or V.

"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 one hundred eighty (180) days ~~of from the date of the permit date~~. The actual start means either the first placement of permanent construction of a structure ~~(including a manufactured home)~~ on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation. 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 as 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. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within a manufactured home park or subdivision, start of construction means the affixing of the manufactured home to its permanent site. For

manufactured homes within manufactured home parks or subdivisions start of construction is the date on which the placement of the manufactured home on a foundation takes place.

“Structure” means a walled and roofed building or manufactured home that is principally above ground; this includes a gas or liquid storage tank or 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 fifty (50) percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. If multiple or phased improvements are involved, said total costs shall be cumulative for a 5 consecutive year period prior to the start of construction. Substantially improved structures are considered new construction and shall meet all the provisions of this chapter for new construction. 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;
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 this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter 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, North American Vertical Datum (NAVD) of 1988, ~~(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, 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. (Ord. 9816 (part), 1998: prior code § 7193)

15.60.030 General provisions.

A. Lands to Which this Chapter Applies. This chapter shall apply to all ~~areas of~~ special flood hazard areas within the jurisdiction of the eCity.

B. Basis for Establishing the ~~Areas of Special Flood Hazard~~ Areas. The ~~areas of~~ special flood hazard areas identified by ~~the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) (revised September 29, 1986) and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated January 6, 1994~~ June 16, 2009 and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the eCity by the floodplain administrator. The FIS and accompanying FIRMs are ~~Flood Insurance Study~~ is on file at City Hall, 315 E. Acequia Avenue, Visalia, California.

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 established in connection with conditions) shall constitute a misdemeanor. Nothing in this chapter shall prevent the eCity 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 man-made or natural causes. This chapter does not imply that land

outside the ~~areas of special flood hazard areas~~ or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the ~~e~~City, any officer or employee thereof, or ~~the Federal Insurance Administration~~FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

G. Severability. This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any portion thereof, other than the section so declared to be unconstitutional or invalid. (Ord. 9816 (part), 1998: prior code § 7194)

15.60.040 Administration.

A. Establishment of Development Permit. A development permit shall be obtained before any construction, or other development including manufactured homes, begins within any area of special flood hazard area established in Section 15.60.030AB. The Application applicant for a development permit shall submit such application~~be made~~ on application forms furnished by the ~~chief building official~~City. The applicant shall provide the following minimum information during the course of applying and completing the development permit: ~~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:

1. During the application process, provide three sets of plans, drawn to scale, showing: ~~Proposed elevations in relation to mean sea level, of the lowest floor (including basement) of all structures; in Zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures; or~~

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. BFE information as shown on the FIRMs referenced in Section 15.60.030B.

e. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

f. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed as required in Section 15.60.050A3b of this chapter and detailed in FEMA Technical Bulletin 3-93.

g. For a structure with a crawlspace foundation, proposed locations and total net area of flood openings as required in Section 15.60.050A3e of this chapter and detailed in FEMA Technical Bulletins 1-08 and 7-93.

2. During the application process, provide a description of the extent to which any watercourse will be altered or relocated as a result of the development permit.

3. During the permit issuance and inspection process, provide preliminary certification from a registered professional engineer or land surveyor of the proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all residential structures.

24. Prior to requesting a final occupancy of the structure, provide the following certifications as applicable:

a. Certification required by Section 15.60.050A3a (lowest floor elevations);

b. Certification required by Section 15.60.050A3b (elevation or floodproofing of nonresidential structures);

c. Certification required by Section 15.60.050A3c (flood openings);

~~Proposed elevation in relation to mean sea level to which any structure will be floodproofed, if required in Section 15.60.050A3c, and~~

~~3. All appropriate certifications listed in Section 15.60.040C5; and~~

~~4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~

~~B. Designation of the Chief Building Official/Floodplain Administrator. The eChief bBuilding eOfficial or authorized designee agent acting in the official's behalf is appointed to administer, and implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions.~~

~~C. Duties and Responsibilities of the Floodplain Administrator/Chief Building Official. Duties and responsibilities of the chief building official/floodplain administrator shall include, but not be limited to:~~

~~1. Permit Review.~~

~~a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;~~

~~b. All other required state and federal permits have been obtained;~~

~~c. The site is reasonably safe from flooding;~~

ed. The proposed development does not adversely affect the carrying capacity of areas where ~~base flood elevation~~BFEs have been determined but a floodway has not been designated. This adverse affect on carrying capacity shall be determined by the analysis required in Section 15.60.050F1.

2. Review, Use and Development of Other Base Flood Data. When ~~base flood elevation~~BFE data has not been provided in accordance with this not available per Section 15.60.030B, the ~~floodplain administrator~~chief building official 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 15.60.050.~~ The floodplain administrator shall require that BFEs 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. ~~Any such information shall be submitted to the city for adoption. This section applies only in those instances where development or construction is proposed in special flood hazard areas designated as Zone A, AO or AH on the FIRM.~~

~~3. Information to be Obtained and Maintained. Obtain and maintain for public inspection and make available as needed for flood insurance policies:~~

- ~~a. The certified elevation required in Section 15.60.050A3a (residential);~~
- ~~b. The certification required in Section 15.60.050A3b (shallow flooding);~~
- ~~c. The floodproofing certification required in Section 15.60.050A3b (nonresidential);~~
- ~~d. The certified elevation required in Section 15.60.050C1 (subdivision); and~~
- ~~e. The anchoring certification required in Section 15.60.050D1 (manufactured home).~~

~~43. Alteration of Watercourses. Notify adjacent communities and the California Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.~~ 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 FEMA; and

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

b. BFE changes due to physical alterations:

i. 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).

ii. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits shall 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.

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

- a. Certification required by Section 15.60.050A3a (lowest floor elevations);
- b. Certification required by Section 15.60.050A3b (elevation or floodproofing of nonresidential structures);
- c. Certification required by Section 15.60.050A3c (~~wet floodproofing standard~~ flood openings);
- d. Certification of elevation required by Section 15.60.050C1 (~~subdivisions standards and other residential development~~);
- ~~e. Certification required by Section 15.60.050F1 (floodway encroachments).~~
- e. Maintain a record of all variance actions, including justification for their issuance.

65. Map Determinations. Make interpretations where needed as to the exact location of the boundaries of the ~~areas of special flood hazard areas~~; 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 15.60.070.

76. Remedial Action. Take action to remedy violations of this chapter as specified in Section 15.60.030C.

7. Non-conversion of Enclosed Areas Below the Lowest Floor.- To ensure that the areas below the 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 5 feet or higher; and

b. Require the applicant to enter into a “NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS” or equivalent with the city. The agreement shall be recorded with the Tulare County Recorder as a deed restriction. The non-conversion agreement shall be in a form acceptable to the floodplain administrator and city attorney; and

c. Have the authority to inspect any area of a structure below the BFE to ensure compliance upon prior notice of at least 72 hours.

(Ord. 9816 (part), 1998: prior code § 7195)

15.60.050 Provisions for flood hazard reduction.

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

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. All manufactured homes shall meet the anchoring standards of Section 15.60.050D1.

2. Construction Materials and Methods. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

a. With materials, which are located below the BFE, that are flood damage resistant per FEMA Technical Bulletin 2-08; and~~All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.~~

b. Using methods and practices that minimize flood damage; and~~All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.~~

c. With mechanical, electrical and plumbing systems and other service systems that are either elevated above the BFE if possible or, if below the BFE, designed to prevent water from entering or accumulating within the system components during conditions of flooding per FEMA 348.~~All elements that function as a part of the structure, such as furnace, hot water heater, air conditioner, etc., shall be elevated to or above the base flood elevation or depth number specified on the FIRM.~~

~~d. All new construction and substantial improvement shall be constructed, if 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. (See Section 15.60.020, definitions for “Basement,” “Lowest floor,” “New construction,” “Substantial damage” and “Substantial improvement.”)

a. Residential construction; All new construction or substantial improvements of residential structures; shall have the lowest floor, including basement:

i. In an AE Zone, elevated to or above the BFE. 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. (The state recommends that the lowest floor be elevated above the highest adjacent grade to a height exceeding the depth specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.)

~~ii. In an A zone, elevated to or above the base flood elevation, as determined by this community. (The state recommends the lowest floor be elevated at least one foot above the base flood elevation, as determined by the community.)~~

iii. In an A zone, without BFE’s specified on the FIRM [unnumbered A zone], elevated to or above the BFE; as determined under Section 15.60.040C2. In all other zones, elevated to or above the base flood elevation. (The state recommends the lowest floor be elevated at least one foot above the base flood elevation.)

~~iii. Prior to issuance of an occupancy permit, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or land surveyor, and verified by the community City building inspector, to be properly elevated prior to issuance of the final inspection of the structure. Such certification or and verification shall be provided to the floodplain administrator.~~

b. Nonresidential construction; All new or substantial improvements of nonresidential structures; shall either be elevated to conform with Section 15.60.050A3a or together with attendant utility and sanitary facilities:

i. Be floodproofed below the elevation recommended under Section 15.60.050A3a to one foot above the BFE so that the structure is watertight with walls substantially impermeable to the passage of water and eligible to receive an insurance rate equivalent to a building with its lowest floor elevated to the BFE;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

iii. Be certified by a registered professional engineer or architect, and verified by the City building inspector, that the standards floodproofing requirements of this Section 15.60.050A3b are satisfied prior to issuance of final occupancy of the structure. 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, building crawlspace or storage, and which are subject to flooding, shall:

~~i. 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:~~

~~i. Be certified by a registered professional engineer or architect; or~~

ii. Be designed to provide Have a minimum of two openings on different exterior walls 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. Buildings with more than one enclosed area shall have two openings on different exterior walls for each enclosed area to allow the automatic entry and exit of floodwater in each enclosed area.

~~iii. Be certified by a registered professional engineer or architect, and verified by the City building inspector, that the flood openings requirements of this Section 15.60.050A3c are satisfied prior to issuance of the final inspection of the structure. Such certification shall be provided to the floodplain administrator.~~

d. Manufactured homes shall meet the standards in Section 15.60.050D.

e. Crawlspace Construction. This sub-section applies to buildings with crawlspaces up to 2 feet below grade. Below-grade crawlspace construction that is done in accordance with the requirements listed below will not be considered to be a basement.

i. Crawlspace construction shall be done per the guidance provided in FEMA Technical Bulletin 11-01.

ii. The building shall be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawlspace construction is not allowed at sites with flood velocities greater than 5 feet per second and other foundation types should be used;

iii. The crawlspace is a fully enclosed area below the BFE and, as such, shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. For guidance on flood openings, see FEMA Technical Bulletin 1-08;

iv. Crawlspace construction is not permitted in V zones. Open pile or column foundations that withstand storm surge and wave forces are required in V zones;

v. Portions of the building below the BFE shall be constructed with materials that are flood damage resistant per FEMA Technical Bulletin 2-08. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE; and

vi. Any mechanical, electrical and plumbing systems located within the crawlspace shall be elevated above the BFE if possible or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions per FEMA 348.

vii. Requirements for all below-grade crawlspace construction, in addition to the above requirements, to include the following:

(a) The interior grade of a crawlspace below the BFE shall not be more than 2 feet below the lowest adjacent exterior grade (LAG), shown as D in figure 3 of Technical Bulletin 11-01;

(b) The height of the below-grade crawlspace, measured from the interior grade of the crawl space to the top of the crawlspace foundation wall shall not exceed 4 feet (shown as L in figure 3 of Technical Bulletin 11-01) at any point; and

(c) There shall be an adequate drainage system that removes floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event, not to exceed 72 hours.

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from 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 Residential Development.

1. All new subdivisions proposals and other proposed residential development, including proposals for manufactured home parks and subdivisions, greater than 10 lots or 3 acres, whichever is the lesser, shall:~~All tentative and final subdivision maps shall identify the flood hazard area and the elevation of the base flood, as designated on the FIRM; further, all final subdivision maps shall provide the elevations of proposed structure(s) and pads. If the site is~~

~~filled above the base flood, the lowest floor and the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the chief building official.~~

a. Identify the location of the SFHA and label the BFE lines on the record map.
b. Identify the elevations of lowest floors of all proposed structures and pads on the record map and construction plans.

c. Place fill to raise the pads for the structures to or above the BFE. The following as-built information shall be certified by a registered civil engineer or licensed land surveyor and included as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to FEMA:

- i. Lowest lot elevation or pad elevation.
- ii. Lowest adjacent grade to structure. (for cases with existing structures)

The application for the LOMR-F shall be submitted to the floodplain administrator for review prior to submission to FEMA. The floodplain administrator shall complete the community acknowledgement form (FEMA Form 81-87B) for inclusion with the application.

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

3. All subdivision proposals and other proposed residential 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 proposals and other proposed residential development shall provide adequate drainage to reduce exposure to flood hazards and shall comply with the provisions of Section 15.60.050F1.

D. ~~Standards for Manufactured Homes and Manufactured Home Parks and Subdivisions.~~

1. All manufactured homes that are placed or substantially improved, 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 upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:~~All manufactured homes and additions to manufactured homes shall be anchored to resist flotation, collapse or lateral movement by one of the following methods:~~

a. Within Zone AE on the community's FIRMs, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the BFE and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~By providing an anchoring system designed to withstand horizontal forces of fifteen (15) pounds per square foot and up-lift forces of nine pounds per square foot; or~~

~~b. By the anchoring of the unit's system, designed to be in compliance with the Department of Housing and Development Manufactured Home Construction and Safety Standards;~~

~~eb. Be certified by a registered professional engineer or land surveyor, and verified by the City or State building inspector, that the lowest floor (including basement) is properly elevated prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator. As set forth in Section 15.60.040C3e, certification meeting the standards above is required of the installer or state agency responsible for regulating the placement, installation and anchoring of individual manufactured home units.~~

~~2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zone AE on the community's FIRMs that are not subject to the provisions of Section 15.60.050D1 shall:~~

~~a. Be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; and~~

~~b. Be elevated so that either: Manufactured Home Parks and Manufactured Home Subdivisions. 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: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred substantial damage as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement.~~

~~aj. The lowest floor of the manufactured home is at or above the BFE; or Adequate surface drainage and access for a hauler shall be provided.~~

~~bij. The chassis of the manufactured home 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. All manufactured homes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the mobile home is at or above the base flood level. If elevated on pilings:~~

~~c. Be certified by a registered professional engineer or land surveyor, and verified by the City or State building inspector, that the lowest floor (including basement) is properly elevated~~

prior to issuance of the final inspection of the structure. Such certification and verification shall be provided to the floodplain administrator.

- ~~i. The lots shall be large enough to permit steps;~~
- ~~ii. The pilings shall be placed in stable soil no more than ten feet apart; and~~
- ~~iii. Reinforcement shall be provided for pilings more than six feet above the ground level.~~
- ~~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 and AE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 15.60.050D2 will be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement, and be elevated so that either the:
 - ~~a. Lowest floor of the manufactured home is at or above the base flood elevation; 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 (36) inches in height above grade.~~~~

E. Standards for Recreational Vehicles.

- 1. All recreational vehicles placed on sites within Zone_s A1-30, AH and AE on the community's ~~Flood Insurance Rate Map~~FIRMs will either:
 - a. Be on the site for fewer than one hundred eighty (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
 - b. Meet the permit requirements of Section 15.60.040 and the elevation and anchoring requirements for manufactured homes in Section 15.60.050D2.

F. Regulatory Floodways. FEMA has stated in the FIS that the City is characterized as an urbanized, inactive alluvial fan system, which consists of highly trained creeks and irrigation channels. This system of creeks and channels does not have the capacity to contain the base flood and therefore the establishment of regulatory floodways is not possible. The resulting flooding from the base flood consists of areas of shallow flooding with overland flows characterized by relatively stable flow paths through the community with flow velocities ranging from 0.5 to 2.0 feet per second. This velocity range of the flood flows is considered low and not extremely hazardous; therefore~~Located within areas of special flood hazard established in Section 15.60.030B 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:~~

1. New construction, substantial development, or other development (including fill) shall be permitted within Zone AE when 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 1 foot at any point within the City, or alternatively, it is demonstrated: (1) that the proposed development does not substantially increase the water surface elevation of the base flood within the vicinity of the proposed development, and (2) the proposed development is designed to allow the flow of the base flood to substantially pass through. This analysis shall be done under the direction of the floodplain administrator and upon satisfactory completion shall be prepared into a report to be accepted by the floodplain administrator. ~~Encroachments, including fill, new construction, substantial improvement, and other new development will be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood elevation during the occurrence of the base flood discharge.~~

2. If Section 15.60.050F1 is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 15.60.050. (Ord. 9816 (part), 1998: prior code § 7196)

15.60.060 Variance procedures.

The variance criteria set forth in this section 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.

A. Conditions for Variances. Generally, variances may be issued for new construction and substantial improvements 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~~BFE, providing the procedures of Sections 15.60.040, and 15.60.050 and ~~Sections 15.60.070B1-11~~ 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 of historic structures (as defined in Section 15.60.020) 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~~ 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, 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 eCity 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 eCity believes will both provide relief and preserve the integrity of the local ordinance.

E. Variances shall only be issued upon:

1. Receipt of a written request for variance from the owner of record, stating the conditions that constitute an extreme hardship;

2. A showing of good and sufficient cause such as renovation, rehabilitation or reconstruction. Variances issued for economic considerations, aesthetic, or because variances have been used in the past, are not good and sufficient cause;

3. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

4. 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, cause fraud on or victimization to the public, or conflict with existing local laws or ordinances.

F. 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~~ BFE will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and

2. Such construction below the ~~base flood level~~ BFE 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 Tulare County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land).

G. 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 Section 15.60.060A-~~through~~E 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.

H. Upon consideration of the factors of this section and the purpose of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.

I. The ~~floodplain administrator~~~~chief building official~~ shall maintain the records of all appeal actions and report any variances to the ~~Federal Emergency Management Agency~~FEMA upon request. (Ord. 9816 (part), 1998: prior code § 7196.1)

15.60.070 Board of appeals.

In order to determine if an error in any requirements, decision or determination by the ~~floodplain administrator~~~~chief building official~~ has been made and to provide for reasonable interpretations of this ~~code~~chapter, there shall be and is created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. Request for appeal shall be made in writing to the ~~floodplain administrator~~~~chief building official~~ on forms available at City Hall, 315 E. Acequia Avenue, Visalia, California~~the city building safety department~~. The ~~floodplain administrator~~~~building official~~ shall be an ex-officio member of and shall act as secretary to the board. The board of appeals shall be appointed by the city council and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the ~~floodplain administrator~~~~building official~~.

A. Those aggrieved by the decision of the appeal board or any taxpayer, may appeal such decision to the civil court as provided in the state law.

B. In passing upon such application, the appeal board shall consider all technical evaluations, all relevant factors, standards, etc., specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to 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;
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 uses that 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 times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water system, and streets and bridges. (Ord. 9816 (part), 1998: prior code § 7196.2)

City of Visalia Agenda Item Transmittal

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Approval of the 2010/11 transit agreement with Tulare County.

Deadline for Action: October 18, 2010.

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:

Monty Cox 713-4591

Department Recommendation: Approve the 2010/11 transit agreement with Tulare County and authorize the City Manager to execute the necessary documents.

Summary/background: This agreement is an annual agreement between the City of Visalia and Tulare County to provide Visalia Transit (VT) service to the unincorporated areas of the greater Visalia Urbanized Area contiguous to the City, including Goshen.

The agreement includes a transfer of \$322,241 from the County to the City equal to the County portion of the VT service provided. Of this amount, \$187,982 is transferred from the County's portion of the Local Transportation Fund and the remaining \$134,259 is comprised of federal funds and farebox revenues which the City collects and retains. This \$322,241 covers the service to Goshen and the other county pockets within the Visalia Urbanized Area. It does not include any service to Farmersville or Exeter as this is addressed through separate agreements with those cities.

Various formulas are used to determine the percentage of service provided to the County and then this percentage is applied to the entire VTT budget to determine the County's share. The formulas were developed the first year of the annual agreement in 1981 and updated each year since. The formulas are based on a percentage of the ridership who reside in the County (5% for Fixed Route & 8% for Dial-A-Ride), a multiplier factor adjusting for the distance to get to and from the County (1.3), and the number of service hours expended within the County areas (9%). The funds are taken from the County's share of the Federal Transit Administration (FTA) Section 5307, County Local Transportation Fund and farebox revenues.

Prior Council/Board Actions: Since 1981, the City and County have entered into annually updated agreements for the provision and coordination of public transit services in the Visalia Urbanized Area.

For action by:

City Council
 Redev. Agency Bd.
 Cap. Impr. Corp.
 VPFA

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 1

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Committee/Commission Review and Actions: None

Alternatives: The City could elect not to service the unincorporated sections of the Visalia Urbanized Area, requiring the County to find an alternate provider. Such action could result in less efficiency and increased costs in the Visalia Region.

Attachments: Copy of the Agreement

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council approve the 2010/11 Transit Agreement between the City of Visalia and the County of Tulare providing Visalia Transit (VT) service to the unincorporated sections of the greater Visalia Urbanized Area contiguous to the City, and authorize the City Manager to execute the necessary documents.

Financial Impact

Funding Source:

Account Number:

Budget Recap:

Total Estimated cost: \$0	New Revenue: \$ 0
Amount Budgeted: \$ 0	Lost Revenue:\$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No <u>X</u>	

Environmental Assessment Status

CEQA Review:

Required? No
Review and Action: Prior:
Require:

NEPA Review:

Required? No
Review and Action: Prior:
Require:

Tracking Information: *Record a Notice of Completion with the County Recorder*

Copies of this report have been provided to:

City of Visalia
Agenda Item Transmittal

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Authorization to approve Tulare County Consolidated Explosive Ordnance Destruction MOU

Deadline for Action: N/A

Submitting Department: Visalia Police Department

Contact Name and Phone Number: Chief Colleen Mestas ext.4215, Captain Rick Haskill ext.4205, Bomb Squad Commander Chuck Hindenburg ext.4250.

Department Recommendation: City Council authorize the Visalia Police Department to enter into an agreement with the Tulare County Sheriff's Office to facilitate the safe and efficient response to incidents concerning explosive ordnance.

Summary/background: The cost to equip an EOD Unit can exceed \$250,000 for the basic equipment required for accreditation by the FBI. The cost to initially send a person to Hazardous Devices School for training and certification as a bomb technician is approximately \$7,000. The National Bomb Squad Commanders Advisory Board (NBSCAB) standards for training calls for a minimum of 40-hours explosive related training, seminar, exercise, symposium, or conference annually, approximately \$9,500, and a minimum of 16-hours per month practical exercise/training at the unit level which can add significant cost for overtime and backfilling of positions.

Because considerable financial savings are possible through combining assets, it is recognized that the establishment of a consolidated EOD Unit would be beneficial to both the County of Tulare and the City of Visalia.

Pursuant to the terms and conditions of this MOU, both the Sheriff and VPD (individually an "Agency" and collectively, the "Agencies") are expected to provide a command level representative who has attended the Hazardous Devices School (HDS) Bomb Squad Executive Management Course when possible.

Pursuant to the terms and conditions of this MOU, both the Sheriff and VPD are expected to provide certified bomb technicians. Each Agency is responsible for the selection and initial training at the HDS of its bomb technicians. Costs associated with attendance at HDS that are not covered by the FBI will be the responsibility of the Agency sending the bomb technician trainee. Costs of individual equipment,

For action by:

City Council
 Redev. Agency Bd.
 Cap. Impr. Corp.
 VPFA

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 20

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

uniforms, and annual explosives related training is the responsibility of the individual bomb technician's Agency.

Each Agency will contribute an equal one-half toward the replacement of equipment (based upon depreciation schedule) which has reached the end of its service life. As an item is replaced, the new item will become the property of the Tulare County Consolidated Explosives Unit.

Bomb technicians from each Agency are expected to participate in monthly EOD training sessions as required by FBI guidelines. The purpose of these trainings is to maintain levels of skill and knowledge, review recent incidents of local and national significance, develop team efficiency, and promote knowledge in the operation of each Agency's specialized equipment.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: Council not authorize the acceptance of the MOU.

Attachments: Tulare County Consolidated Explosive Ordnance Destruction Unit MOU.

Recommended Motion (and Alternative Motions if expected): I move that City Council authorize the Visalia Police Department to enter into an agreement with the Tulare County Sheriff's Office to facilitate the safe and efficient response to incidents concerning explosive ordnance.

Environmental Assessment Status

CEQA Review:

NEPA Review:

Tracking Information: (*Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date*)

Copies of this report have been provided to:

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF VISALIA THROUGH
THE VISALIA POLICE DEPARTMENT

AND

THE COUNTY OF TULARE THROUGH
THE TULARE COUNTY SHERIFF'S OFFICE

FOR

TULARE COUNTY CONSOLIDATED
EXPLOSIVE ORDNANCE
DESTRUCTION

INTRODUCTION

This Memorandum of Understanding (“MOU”) is entered into between the County of Tulare (“County”) through its Sheriff’s Office (“Sheriff”) and the City of Visalia (“Visalia”) through its Police Department (“VPD”) for the purpose of entering into a cooperative agreement to facilitate the safe and efficient response to incidents concerning explosive ordnance.

The cost to equip an Explosive Ordnance Unit can exceed \$250,000 for the basic equipment required for accreditation by the FBI. The cost to initially send a person to Hazardous Devices School for training and certification as a bomb technician is approximately \$7,000. The National Bomb Squad Commanders Advisory Board (NBSCAB) standards for training calls for a minimum of 40-hours explosive related training, seminar, exercise, symposium, or conference annually, approximately \$9,500, and a minimum of 16-hours per month practical exercise/training at the unit level which can add significant cost for overtime and backfilling of positions.

Because considerable financial savings are possible through combining assets, it is recognized that the establishment of a consolidated EOD Unit would be beneficial to both the County of Tulare and the City of Visalia.

Pursuant to the terms and conditions of this MOU, both the Sheriff and VPD (individually an “Agency” and collectively, the “Agencies”) are expected to provide a command level representative who has attended the Hazardous Devices School (HDS) Bomb Squad Executive Management Course when possible.

Pursuant to the terms and conditions of this MOU, both the Sheriff and VPD are expected to provide certified bomb technicians. Each Agency shall attempt to provide at least three bomb technicians. Each Agency is responsible for the selection and initial training at the HDS of its bomb technicians. Costs associated with attendance at HDS that are not covered by the FBI will be the responsibility of the Agency sending the bomb technician trainee. Costs to purchase individual equipment, uniforms, and annual explosives related training is the responsibility of the individual bomb technician’s Agency, requiring the approval of the Department Head.

Each Agency will contribute an equal one-half toward the replacement of equipment (based upon depreciation schedule) which has reached the end of its service life. As an item is replaced, the new item will become the property of the Tulare County Consolidated Explosives Unit. Each Agency agrees it will be jointly responsible for enforcing any warranties or liability claims related to such jointly owned equipment.

Bomb technicians from each Agency are expected to participate in monthly EOD training sessions as required by FBI guidelines. The purpose of these trainings is to maintain levels of skill and knowledge, review recent incidents of local and national significance, develop team efficiency, and promote knowledge in the operation of each Agency’s specialized equipment.

PURPOSE:

The EOD Unit will work in partnership to handle incidents involving explosives and enforce the laws dealing with explosive devices. The EOD Unit will remain a mutual aid asset to Region 5 and the State of California.

DUTIES:

It is understood and agreed that the duties of the EOD bomb technicians shall include, where applicable and on an as needed basis:

- A. The examination and render safe of suspected and actual improvised explosive devices and commercial explosives.
- B. The identification and safe disposition of minor military ordnance.
- C. The transportation, storage, and destruction of explosives, blasting caps, blasting agents, ammunition, and other explosive material.
- D. The examination and collection of evidence at the scenes of explosive incidents.
- E. The investigation of illegal explosives and post-blast scenes.
- F. The provision of technical advice and expert testimony during the investigation and prosecution of cases involving explosive or explosive devices.
- G. Assistance in operations involving security and protection of dignitaries and V.I.P.s, as needed.
- H. The provision of explosives-related training classes for Agency personnel, as needed.
- I. Assistance to public agencies and private industry in the training of their personnel in bomb threat procedures.
- J. The preparation of required reports to various local, state, and federal agencies.
- K. The maintenance of the necessary training and equipment to provide the above-listed services.

AGENCY WITHDRAWAL:

Each Agency shall have the duty to participate in this MOU only so long as the Agency has the ability to continue participation. The inability to participate may arise as a result of budget constraints, the lack of qualified bomb technicians, a lack of required equipment, of other similar reasons.

In the event that an Agency is unable to continue to participate in this MOU, that Agency shall notify the other Agency in writing as soon as possible and upon receipt of the notice, this MOU shall terminate. Notice shall be given at least one month prior to the effective date, except in cases of emergencies where it is impossible to give the one-month notice. In cases of emergencies, notice shall be given orally and followed in writing. Notice of termination of this MOU may be given by the Tulare County Sheriff or his/her designee and by the Chief of Police of the Visalia Police Department or his/her designee.

Either Agency may also agree to terminate this MOU if either respectively determines a consolidated unit is not in its interest. In the event that either Agency decides to terminate this MOU, then it shall notify the other Agency in writing at least six months prior to the effective termination.

In case this MOU terminates County and Visalia agree that each Agency shall retain the equipment belonging to them and shall divide the equipment belonging to the Tulare County Consolidated Explosives Unit equally between them by dividing the then present value of the equipment or its equivalent.

OPERATIONS:

A. POLICY AND PROCEDURES

It is understood and agreed that all members of the EOD Unit shall abide by the applicable policies and procedures of their respective Agency. The bomb technician on scene of the agency of jurisdiction shall supervise at the explosive incidents.

B. RESPONSE

It is understood and agreed that an EOD Unit callout may originate with either the Sheriff's Office or Visalia Police Department. A minimum of two EOD technicians shall respond to any given call. It is the intention of this MOU to have one technician respond from each agency whenever possible. The level of additional assistance to be requested will be made by the bomb technician of the Agency having jurisdiction at explosives incidents.

C. OPERATIONAL GUIDELINES

It is understood and agreed that the personnel of the Agencies shall follow the established guidelines as prescribed by the FBI Bomb Data Center and the Hazardous Devices School.

D. REPORTS

It is understood and agreed that the Agency having primary jurisdiction at the explosive incident shall complete any necessary reports dealing with the incident. Nevertheless, the other Agency assisting at the explosives incident may submit any necessary departmental reports as outlined in its operational policies.

It is further understood and agreed as follows:

- Mutual Aid responses and requests shall follow normal mutual aid guidelines prescribed by the State of California Master Mutual Aid Agreement.
- The EOD Unit may respond to mutual aid requests upon approval of the Tulare County Sheriff's Office.

PERSONNEL:

Personnel to be trained as bomb technicians will be selected by their individual agencies and must meet the criteria established by the National Bomb Squad Council Advisory Board (NBSCAB).

Each agency will incur and maintain the salary, workers' compensation coverage, benefits, and upkeep of its own personnel and other necessary individual equipment.

EQUIPMENT:

Equipment shall be maintained at the minimum to meet or exceed the requirements for EOD accreditation.

All equipment shall be located in one location as mutually agreed upon by both parties. It shall be the responsibility of both agencies to ensure all EOD personnel are trained to use all equipment and require EOD personnel to ensure proper maintenance of said equipment. Any equipment that is damaged while under the sole use and control of the either Agency that is owned by the other Agency shall be replaced or repaired at the expense of the borrowing Agency.

INDEMNIFICATION:

The City of Visalia shall defend, hold harmless, and indemnify Tulare County, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of County Counsel and counsel retained by the County, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees by reason of any person's or persons' bodily injury, including death, or property (including property of the County) being damaged by the negligent acts, willful acts, or errors or omissions of the City of Visalia or any person employed by the City of Visalia, in any capacity during the term of

this MOU, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of the County.

The County of Tulare shall defend, hold harmless, and indemnify the City of Visalia, its elected officials, officers, employees, agents, and volunteers against all claims, suits, actions, costs, expenses (including but not limited to reasonable attorney's fees of City Attorney and counsel retained by the City of Visalia, expert fees, litigation costs, and investigation costs), damages, judgments, or decrees by reason of any person's or persons' bodily injury, including death, or property (including property of the City of Visalia) being damaged by the negligent acts, willful acts, or errors or omissions of the County or any person employed by the County, in any capacity during the term of this MOU, except when the injury or loss is caused by the sole negligence or intentional wrongdoing of the City of Visalia.

It is the intent of the County of Tulare and the City of Visalia that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, liability, fines, penalties, forfeitures, costs and damages, expense and liability attributable to that party's negligence.

Each party shall establish procedures to notify the other parties where appropriate of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification provision. The parties shall cooperate in the defense of such actions brought by others with respect to the matters covered in this MOU. Nothing set forth in this MOU shall establish a standard of care for, or create any legal rights in, any person not a party to this MOU.

INSURANCE:

It is understood and agreed that each party maintains insurance policies or self-insurance programs to fund their respective liabilities, including liability arising out of the ownership, maintenance, operation and use of equipment or procedures used in explosive ordnance destruction. Each party agrees that their respective insurance policies or self-insurance policies shall be modified as necessary to include any liability arising out of this MOU by their respective departments. The Agencies agree that such respective programs or policy coverage for Workers' Compensation shall contain a waiver of subrogation as to the other parties and each of its officers, officials, agents, employees and volunteers. Evidence of insurance, certificates of insurance or other similar documentation shall not be required by either party to this MOU.

ASSIGNMENT PROHIBITED:

No party shall assign or transfer its rights or obligations under this Agreement, except as expressly provided in this Agreement.

EXTENT OF AGREEMENT:

This Agreement represents the entire and integrated agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be modified only by written instrument duly authorized and executed by each party.

County of Tulare

City of Visalia

By: _____
Bill Wittman, Sheriff-Coroner

By: _____
Colleen Mestas, Chief of Police

ATTEST:
County Clerk

ATTEST:
City Clerk

By: _____

By: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM

By: _____
County Counsel

By: _____
City Attorney

By: _____
Risk Management

By: _____
Risk Management

By: _____
Board of Supervisors

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk): 8

Agenda Item Wording: Public Hearing and Introduction of Ordinance No. 2010-09, Zoning Text Amendment No. 2010-07: An application by the City of Visalia to amend portions of Title 17 of the Visalia Municipal Code Zoning Ordinance Section 17.48 (signs), pertaining to subdivision and real estate signs.

Deadline for Action: None

Submitting Department: Community Development Dept.
Planning Division

Contact Name and Phone Number:

Chris Young, 713-4392
Andrew Chamberlain, 713-4003

Department Recommendation: The Planning Commission recommends that the City Council introduce Ordinance No. 2010-09 for the first reading of Zoning Text Amendment No. 2010-07, amending:

- Subdivision Signs – VMC 17.48.040 (T)
- Real Estate Signs – VMC 17.48.070 (B)

These amendments were initiated separately by City Council direction in mid-2010, and have been combined into a single sign ordinance amendment.

Background on Zone Text Amendment No. 2010-07: Subdivision Signs: On May 17, 2010, the City Council directed that staff initiate a Zoning Ordinance Text Amendment to allow increased temporary subdivision signage including off-site signs and off-site A-frame signs. ZTA No. 2010-07 will allow for up to four off-site signs and four off-site A-frame signs with allowable sizes and locations consistent with Council's prior direction for these types of signs. In furtherance of City Council direction, code enforcement personnel have temporarily suspended enforcement of existing subdivision sign regulations in a manner that is similar to what would be in effect if the proposed provisions were in place. Subdivision owners appear to have largely complied with these temporary informal requirements.

Real Estate Signs: Separately, on July 12, 2010, the City Council directed initiation of a Zoning Ordinance Text Amendment to expand the use of off-site signs for real estate sales to assist the sales of existing homes. ZTA No. 2010-07 will provide for up to six temporary signs, up to 24" X 36" in size, double sided, and up to three feet tall. The signs would need to be located so as not to impede, obstruct, or cause a vehicle or pedestrian hazard, and would be allowed only on the day of the open house. As with subdivision

For action by:

City Council
 Redev. Agency Bd.
 Cap. Impr. Corp.
 VPFA

For placement on which agenda:

Work Session
 Closed Session

Regular Session:

Consent Calendar
 Regular Item
 Public Hearing

Est. Time (Min.): 30

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

signs, in furtherance of City Council direction, code enforcement personnel have temporarily suspended enforcement of existing real estate sales sign regulations in a manner that is similar to what would be in effect if the proposed provisions were in place. Real estate agents taking advantage of these interim rules appear to have largely complied with them.

On-site Subdivision Promotional Signage and Devices: This amendment does not include any amendments to expand the scope of allowable on-site subdivision activities or advertising because no consensus among the Decision Authorities (City Council and Planning Commission), proponent, and City staff have been discerned to date

Kiosk Sign Program Amendments: This amendment does not include any amendments to the kiosk sign portion of the sign ordinance. It is anticipated that the desire to discontinue that program will generate opposition from present entitlement holders. The primary point of contention is the need for and duration of an amortization period for removal of the current permitted kiosk signs. Staff and the City Attorney's office have been evaluating this issue and will be preparing recommended amendments that will be presented to the City Council separately in the near future. In the interim, code enforcement staff will continue to monitor existing kiosk signs for compliance with the current kiosk sign ordinance provisions and graffiti ordinances, and any signs which fail to meet those requirements will be subject to code enforcement proceedings, which may include permit revocation.

Committee/Commission Review and Actions: The Planning Commission held a public hearing on August 23, 2010, and recommended approval of Zone Text Amendment No. 2010-07. The Commission split the action into two separate votes: The first vote was for subdivision signage; and, the second vote was for real estate signage. The subdivision signs received a 4-1 (Salinas-No) for approval. Commissioner Salinas stated that he felt the subdividers did not follow the first set of rules, and that he felt uncomfortable with giving subdivisions an advertising advantage that other businesses do not have. The real estate signs received a 5-0 vote for approval.

Mr. Bob Keenan and Ms. Jane Willis, representing the Home Builders Association (HBA) spoke in support of the proposed subdivision sign changes action. Mr. Brad Maaske, representing the Tulare County Association of Realtors spoke in support of the proposed changes to allow flexibility in the use of real estate signs for the sales of existing homes.

Proposed Amendments to Subdivision Signs - VMC 17.48.040 (T)

The proposed changes would provide for up to four off-site subdivision signs up to 32 square feet per face each, and four off-site A-frame signs up to 12 square feet per face each.

The initiation of this action will also rescind Zoning Ordinance Section 17.48.040 (T – 1). This will eliminate the current allowance for unlimited numbers of off-site 2' X 2' signs.

Proposed Changes:

T. Subdivision Directional Signs. Subdivision directional signs for a residential subdivision shall require a sign permit. For the purposes of this subsection, a residential subdivision is defined as a housing project within a recorded tract where ten (10) or more structures or dwelling units are concurrently undergoing construction. Sign permit applications for proposed subdivision directional signs will be reviewed by the city planner, or designee of the City Planner, and all subdivision directional signs authorized by this Section 17.48.040(T) may be permitted by a single programmatic permit issued on a per subdivision basis. All subdivision directional signs authorized by this Section 17.48.040(T) shall conform to the following requirements and specifications:

1. May not exceed four square feet in area or four feet in height. Up to four (4) offsite subdivision directional signs with a size not to exceed 4'x8' per sign (32 sq. ft. per face), shall be allowed per subdivision. Offsite subdivision directional signs shall be located on private, non-Residential zoned property. The City Planner, or designee of the City Planner, shall have the discretion to, allow offsite subdivision directional signs on Residential zoned property that is unoccupied, vacant and otherwise free from any structures or buildings.

2. Up to four (4) offsite A-frame directional signs, with a size not to exceed twelve (12) sq. ft. per face, shall be allowed per subdivision. Off-site A-Frame directional signs shall be located on private, non-Residential property only and within 1,500 ft. from the subject subdivision. The City Planner, or designee of the City Planner, shall have the discretion to allow offsite A-Frame directional signs on Residential zoned property that is unoccupied, vacant and otherwise free from any structures or buildings.

3. Subdivision directional signs ~~May~~ not be illuminated.

4. Subdivision directional signs ~~May~~ be single- or double-faced, or V-shaped if the angle between the two faces does not exceed 45 degrees.

5. Subdivision directional signs ~~May~~ only contain commercial messages thereon limited to the name of the subdivision, developer's name or logo or branding identification, and directional information.

6. Written evidence of owner's consent must be presented with an application for a sign permit for a subdivision directional sign. No more than one subdivision directional sign per parcel shall be allowed.

7. Sign permits for all subdivision directional signs shall expire not later than six months after issuance. The city planner shall have the discretion to grant an extension or extensions of the permit's duration, however, under no circumstances may the permit extend beyond such time that the developer has completed the sale of all units in the development.

Proposed Amendments to Real Estate Signs - VMC 17.48.070 (B)

The proposed changes to real estate signs was presented at the City Council meeting of July 12, 2010, by the Tulare County Association of Realtors. The Council included the proposed changes in the initiation for this action. The changes would allow for the orderly display of up to six individual "Open House" and related information signs per residential property in either A-frame or in-ground (wire based) sign types. The signs will be limited to a maximum of six square feet per sign and a height of three feet. The proposed regulations would allow specific placement of the signs in the public right-of-way as it does not to not cause visibility or driving hazards, and set, time limits from 8 am to 6 pm. The proposed amendments are as follows:

The proposed amendment would add the following section:

17.48.070 (5)

5. Temporary Open House Signs

(a) For the purposes of this section, "Temporary Real Estate Open House Sign" means a temporary sign that solely indicates that property, or a portion thereof, is for sale, and provides directions to and information regarding the property.

- (b) All Temporary Real Estate Open House Signs are subject to the following conditions:
1. Size. The total face area of the signs shall not exceed twenty-four (24) inches by thirty six (36) inches in size.
 2. Height. The vertical distance measured from ground level to the highest point of such sign or sign structure or other support shall not exceed three (3) feet.
 3. Limit. No more than (6) six Temporary Real Estate Open House Signs per property for sale may be posted within the public right-of-way.
 4. Type. Temporary Real Estate Open House Signs shall be an A-frame or "in ground light weight wire based" signs, shall be maintained in good condition at all times, and shall be constructed out of materials normally used in professional signage. No balloons or flags or similar devices may be affixed to a Temporary real Estate Open House Sign.
 5. Location. No Temporary Real Estate Open House Sign may be placed, used or maintained:
 - (1) On trees, traffic signs or utility poles, nor be placed in such a manner as to obstruct the view of any official public sign.
 - (2) On private property or public right-of-way if the location obstructs, impedes or otherwise disturbs the safe and convenient use by the public of any street or sidewalk.
 - (3) In or on any roadway area or center median area.
 - (4) Within 18" from face of curb.
 - (5) On streets undergoing construction.
 - (6) On streets being utilized for special events.
 - (7) Within five (5) feet of the beginning of the curb return of any intersection, weather the intersections have marked or unmarked crosswalks.
 6. Time. Signs shall only be displayed during the "open house" and not earlier than 8 am; and must be removed no later than dusk or 6 pm, whichever is earlier.
 7. Identification Required. Every person who places or maintains a Temporary Real Estate Open House Sign shall have his/her name and telephone number on or affixed to the sign.

On-site Subdivision Promotional Signage and Devices

During the Planning Commission public hearing to consider this item, the HBA spoke in support of the proposed amendments, but also reiterated their request to allow substantial on-site signage and promotional devices. The Planning Commission did not incorporate any of these additions in their recommendation. Instead they encouraged the proponents

to work with staff, and present any new consensus recommendations for on-site signage to the City Council. Staff met with the Mr. Keenan as directed by the Planning Commission. Mr. Keenan requested the four following actions. Lacking any specific direction from the Planning Commission action, or City Council discussion on promotional activities inside subdivisions, these actions were not included in the current recommendation. The Council may choose to add any of these items as a part of the current action.

1. Events within the subdivision which are not readily visible from outside the subdivision, this may include a bounce house for children, antique vehicles, and similar activities.
2. Internal subdivision signs and promotional materials which can not be seen from outside the subdivision.
3. One banner to be placed on the wall of the subdivision, in addition to the two temporary 32 square foot signs currently allowed to be mounted over the wall.
4. Balloons – one large balloon tethered inside the subdivision or a string of smaller balloons tethered inside the subdivision.

Events held within the subdivision are typically held with no action required by the City unless it involves the use of a public street which may require review by the Special Events Committee, and/or a temporary conditional use permit (TCUP). The addition of one banner on the wall of the subdivision is currently provided for through the issuance of a TCUP for a banner. The use of balloons, specifically the large balloons at heights which can be seen from great distances is not currently allowed, and was not a part of the consideration by the Planning Commission. Staff would recommend that the City Council retain the existing code which prohibits their use. It should be noted that City Code enforcement staff does not pro-actively abate on-site signs and devices that do not constitute a safety threat or generate a nuisance complaint.

Prior Council/Board Actions: City Council Study Sessions April 19, 2010, May 17, 2010, and July 12, 2010.

Committee/Commission Review and Actions: Planning Commission action on August 23, 2010, voted to recommend approval of subdivision and real estate signage amendments.

Alternatives: The City Council may:

1. Propose further modifications to the ordinance as presented and refer the matter back to the Planning Commission for review and action; or
2. Take no action at this time.

Attachments:

1. Planning Commission staff report of August 23, 2010
2. City Council Work Session Transmittal Subdivision Signs - April 19 & May 17, 2010
3. City Council Work Session Transmittal Real Estate Signs – July 12, 2010

Recommended Motion: I move to introduce Ordinance No. 2010-09 for Zone Text Amendment No. 2010-07, amending portions of Title 17 of the Visalia Municipal Code pertaining to Subdivision and Real Estate signs, for the first reading.

Alternative Motion: I move to add the propose modifications, as discussed, to the ordinance as presented and refer the matter back to the Planning Commission for review and action.

Environmental Assessment Status

CEQA Review: This action consists of amending the regulations for temporary signs which will not result in a change of land use or density whereby the proposed changes are considered Categorical Exempt under Section 15305 and a Categorical Exemption was prepared for this project, consistent with the California Environmental Quality Act (CEQA). Staff recommends that Notice of Exemption No. 2010-53 be adopted for this project.

NEPA Review: Not Required

Tracking Information: *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

Copies of this report have been provided to:

Planning Commission

Home Builder's Association

Tulare County Association of Realtors

Visalia Chamber of Commerce Governmental Affairs Committee

ORDINANCE NO. 2010- 09

AN ORDINANCE OF THE CITY OF VISALIA, APPROVING ZONING ORDINANCE TEXT AMENDMENT NO. 2010-07, TO AMEND PORTIONS OF TITLE 17 OF THE VISALIA MUNICIPAL CODE PERTAINING TO SUBDIVISION AND REAL ESTATE SIGNS, AMENDING ZONING ORDINANCE SECTION 17.48.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The Planning Commission of the City of Visalia recommends that the City Council adopt Zone Text Amendment No. 2010-07, and find it to be in accordance with Section 17.44.070 of the Zoning Ordinance of the City of Visalia.

Section 2: The Zoning Ordinance is hereby amended as presented in Exhibit "A" to provide flexibility for the use of temporary subdivision and real estate signs.

Section 3: This ordinance shall become effective 30 days after passage hereof.

EXHIBIT – A
Ordinance

VMC 17.48.040 (T)

T. Subdivision Directional Signs. Subdivision directional signs for a residential subdivision shall require a sign permit. For the purposes of this subsection, a residential subdivision is defined as a housing project within a recorded tract where ten (10) or more structures or dwelling units are concurrently undergoing construction. Sign permit applications for proposed subdivision directional signs will be reviewed by the city planner, or designee of the City Planner, and *all subdivision directional signs authorized by this Section 17.48.040(T) may be permitted by a single programmatic permit issued on a per subdivision basis. All subdivision directional signs authorized by this Section 17.48.040(T) shall conform to the following requirements and specifications:*

1. May not exceed four square feet in area or four feet in height. *Up to four (4) offsite subdivision directional signs with a size not to exceed 4'x8' per sign (32 sq. ft. per face), shall be allowed per subdivision. Offsite subdivision directional signs shall be located on private, non-Residential zoned property. The City planner, or designee of the City Planner, shall have the discretion to, allow offsite subdivision directional signs on Residential zoned property that is unoccupied, vacant and otherwise free from any structures or buildings.*

2. *Up to four (4) offsite A-frame directional signs, with a size not to exceed twelve (12) sq. ft. per face, shall be allowed per subdivision. Off-site A-Frame directional signs shall be located on private, non-Residential property only and within 1,500 ft. from the subject subdivision. The City Planner, or designee of the City Planner, shall have the discretion to allow offsite A-Frame directional signs on Residential zoned property that is unoccupied, vacant and otherwise free from any structures or buildings.*

3. *Subdivision directional signs M*ay not be illuminated.

4. *Subdivision directional signs M*ay be single- or double-faced, or V-shaped if the angle between the two faces does not exceed 45 degrees.

5. *Subdivision directional signs M*ay only contain commercial messages thereon limited to the name of the subdivision, developer's name or logo or branding identification, and directional information.

6. Written evidence of owner's consent must be presented with an application for a sign permit for a subdivision directional sign. No more than one subdivision directional sign per parcel shall be allowed.

7. Sign permits for all subdivision directional signs shall expire not later than six months after issuance. The city planner shall have the discretion to grant an extension or extensions of the permit's duration, however, under no circumstances may the permit extend beyond such time that the developer has completed the sale of all units in the development.

EXHIBIT – A
Page 2
Ordinance

VMC 17.48.070 (B)

17.48.070 (5)

5. Temporary Open House Signs

(a) For the purposes of this section, “Temporary Real Estate Open House Sign” means a temporary sign that solely indicates that property, or a portion thereof, is for sale, and provides directions to and information regarding the property.

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6. Time. Signs shall only be displayed during the “open house” and not earlier than 8 am; and must be removed no later than dusk or 6 pm, whichever is earlier.

7. Identification Required. Every person who places or maintains a Temporary Real Estate Open House Sign shall have his/her name and telephone number on or affixed to the sign.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 18, 2010

Agenda Item Number (Assigned by City Clerk):

9. **Agenda Item Wording:** Continue until Nov. 1, 2010 approval of one of the following options for Group G (Firefighters) for FY2010-2011:

- a. Approval of a resolution regarding an MOU with terms and conditions of employment.

Or

- b. Approval of **Resolution 2010-63** imposing the City's Last, Best and Final Offer.

Deadline for Action: None

Submitting Department: Administrative Services

Contact Name and Phone Number: Eric Frost, x4474

Department Recommendation: That the City Council continue this item, Group G (Firefighters, 61 members), until Nov. 1, 2010.

Discussion

The Council is being asked to continue the imposition hearing for Group G because we are close to an agreement. The basic outline of the agreement, when finalized, will include:

- A new retirement tier for new employees
- A 4.1% compensation concession which will include the loss of the Disability Avoidance Program
- A two year agreement with no compensation increase in the second year
- A trial work schedule of 48/96

Because the agreement details are not finalized and approved by the Fire Bargaining Unit, staff requests that the Council continues this item until Nov. 1. On Nov. 1, the Council would either act upon the new agreement or finalize their imposition hearing.

Prior Council/Board Actions: Potential Imposition Hearing, 9/20/10

Committee/Commission Review and Actions:

Alternatives:

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session

Regular Session:

- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Attachments:

Recommended Motion (and Alternative Motions if expected):

I move to continue until Nov. 1, 2010, approval of one of the following options for Group G (Firefighters) for FY2010-2011:

- a. Approval of a resolution regarding an MOU with terms and conditions of employment.
- b. Approval of **Resolution 2010-63** imposing the City's Last, Best and Final Offer.

Environmental Assessment Status

CEQA Review:

NEPA Review: