

PART 32 – FLOODPLAIN MANAGEMENT

32.01 - Statutory Authorization

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 *et seq.*, conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of the County of Sierra does hereby adopt the following floodplain management regulations.

32.02 - Findings of Fact

- (a) The flood hazard areas of Sierra County are subject to periodic inundation which can 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.
- (b) These flood losses are caused by uses that are inadequately elevated, flood proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss.

32.03 - Statement of Purpose

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

- (a) protect human life and health;
- (b) minimize expenditure of public money for costly flood control projects;
- (c) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) minimize prolonged business interruptions;
- (e) minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines, and streets and bridges located in areas of special flood hazard;
- (f) help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- (g) ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

32.04 - Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance includes methods and provisions to:

- (a) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (b) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- (c) control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) control filling, grading, dredging, and other development which may increase flood damage; and
- (e) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

32.05 - Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

32.05.010 - “Accessory structure” means a non-habitable structure that is used solely for the parking of cars, limited storage of materials and other similar accessory uses.

32.05.020 - “Accessory use” means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

32.05.030 - “Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

32.05.040 - “Base flood” means a flood which has a one percent chance of being equaled or exceeded in any one year (also called the “100-year flood”). Base flood is the term used throughout this ordinance.

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

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

32.05.070 - “Encroachment” means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

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

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

32.05.100 - “Flood, flooding, or flood water” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; the unusual and rapid accumulation or runoff of surface waters from any source.

32.05.110 - “Flood Boundary and Floodway Map (FBFM)” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

32.05.120 - “Flood Hazard Boundary Map” means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

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

32.05.140 - “Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

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

32.05.160 - “Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

32.05.170 - “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.

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

32.05.190 - “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

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

32.05.210 - “Floodway fringe” is that area of the floodplain on either side of the “Regulatory Floodway” where encroachment may be permitted.

32.05.220 - “Fraud and victimization” as related to Section 32.23 of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Sierra County Board of Supervisors will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased

risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

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

32.05.240 - “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.

32.05.250- “Habitable area” is living and/or sleeping quarters, or enclosed conditioned spaces suitable for overnight occupation and eligible for classification under the California Building Code as Residential Group R.

32.05.260 - “Hardship” as related to Section 32.23 of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The Sierra County Board of Supervisors 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.

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

32.05.280 - “Historic structure” means any structure that is

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

32.05.290 - “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.

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

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

- (a) An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor provided it conforms to applicable non-elevated design requirements, including, but not limited to:
1. the wet floodproofing standard in Subsection 32.17.003;
 2. the anchoring standards in Subsection 32.17.001;
 3. the construction materials and methods standards in Subsection 32.17.002; and
 4. the standards for utilities in Section 32.18.
- (b) For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see “Basement” definition). This prohibition includes below-grade garages and storage areas.

32.05.320 - “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

32.05.330 - “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.

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

32.05.350- “Mixed-Use construction” means buildings, structures or other improvements containing design elements or spaces suitable for both commercial, non-residential uses and residential-type uses including but not limited to habitable areas. Living quarters accessory to permitted commercial uses.

32.05.360 - “New construction,” for floodplain management purposes, means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

32.05.370 - “New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation

of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

32.05.380 - “Obstruction” includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

32.05.390 - “One-hundred-year flood” or “100-year flood” - see “Base flood.”

32.05.400 - “Public safety and nuisance” as related to Section 32.25 of this ordinance means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.

32.05.410 - “Recreational vehicle” means a vehicle which is

- (a) built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) designed to be self-propelled or permanently towable by a light-duty truck; and
- (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

32.05.420 - “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.

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

32.05.440 - “Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

32.05.450 - “Sheet flow area” - see “Area of shallow flooding.”

32.05.460 - “Special flood hazard area (SFHA)” means an area having special flood hazards and shown on an FHBM or FIRM as Zone A, AI-A30, AE, A99, E, or M.

32.05.470 - “Start of construction” includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such

as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms. 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.

32.05.480 - “Structure” means a walled and/or roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

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

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

- (a) any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) any alteration of a “historic structure,” provided that the alteration will not preclude the structure's continued designation as a “historic structure.”

32.05.510 - “Variance” means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

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

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

32.05.540 - “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.

32.06 - Lands to Which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Sierra County.

32.07 - Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the "Flood Insurance Study (FIS) for Sierra County, California and incorporated areas" dated September 1, 1988 and accompanying Flood Insurance Rate Maps (FIRM's) and Flood Boundary and Floodway Maps (FBFM's) dated September 1, 1988, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Sierra County Board of Supervisors by the Floodplain Administrator. The study, FIRM's and FBFM's are on file at the Sierra County Planning Department, P.O. Box 530, Downieville, California, 95936.

32.08 - Compliance

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

32.09 - Abrogation and Greater Restrictions

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

32.10 - Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

- (a) considered as minimum requirements;
- (b) liberally construed in favor of the governing body; and
- (c) deemed neither to limit nor repeal any other powers granted under state statutes.

32.11 - Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Sierra County Board of Supervisors, any officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

32.12 - Severability

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

32.13 - Establishment of Development Permit

A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 32.07. Application for a development permit shall be

made on forms furnished by the Floodplain Administrator. The applicant shall provide the following minimum information:

- (a) Plans in duplicate, drawn to scale, showing:
 - 1. The nature, location, dimensions, and elevation of the area in question; existing or proposed structures, storage of materials and equipment and their location;
 - 2. Proposed locations of water supply, sanitary sewer, and other facilities;
 - 3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - 4. Location of the regulatory floodway when applicable;
 - 5. Base Flood Elevation information. The applicant shall provide a flood elevation certificate as certified by a registered professional engineer or surveyor.
 - 6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 - 7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 32.17.003.b. of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.
- (b) Certification from a registered professional engineer or surveyor that the foundation for the construction is built to the correct elevation standard per the preliminary elevation certificate.
- (c) Prior to final approval of the development permit: the applicant shall provide certification from a registered professional engineer or surveyor, in the form of a final elevation certificate, that the final construction meets the correct elevation standard per the preliminary elevation certificate and the requirements of this part.
- (d) Certification from a registered professional engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 32.17.003.b.
- (e) For a crawl-space foundation, location and total net area of foundation openings as required in Section 32.17.004. of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.
- (f) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (g) All appropriate certifications listed in Section 32.15.004.

32.14 - Designation of the Floodplain Administrator

The Sierra County Director of Planning and Public Works is hereby appointed to administer, implement, and enforce this Part by granting or denying development permits in accord with its provisions.

32.15 - Duties and Responsibilities of the Floodplain Administrator

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following.

32.15.001 - Permit Review

Review all development permits to determine that

- (a) permit requirements of this ordinance 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 base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within Sierra County; and
- (e) All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

32.15.002 – Review, Use and Development of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 32.07, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Sections 32.17 through 32.22. Any such information shall be submitted to the Sierra County Board of Supervisors for adoption.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265. "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevation" dated July 1995.

32.15.003 - Notification of Other Agencies

In alteration or relocation of a watercourse:

- (a) notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
- (b) submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and
- (c) assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

32.15.004 - Documentation of Floodplain Development

Obtain and maintain for public inspection and make available as needed the following:

- (a) certification required by Subsection 32.17.003(a) (floor elevations);
- (b) certification required by Subsection 32.17.003(b) (elevation or floodproofing of nonresidential structures);
- (c) certification required by Subsection 32.17.004 (floodproofing standard);

- (d) certification of elevation required by Section 32.19(b) (subdivision standards);
- (e) certification required by Section 32.22(a) (floodway encroachments).

32.15.005 - Map Determinations

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, 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 Sections 32.23 through 32.25.

32.15.006 - Remedial Action

Take action to remedy violations of this ordinance as specified in Section 32.08.

32.16 - Appeals

The Board of Supervisors of Sierra County shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

32.17 - Standards of Construction

In all areas of special flood hazards the following standards are required.

32.17.001 - Anchoring

- (a) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
- (b) All manufactured homes shall meet the anchoring standards of Section 32.20.

32.17.002 - Construction Materials and Methods

All new construction and substantial improvement shall be constructed

- (a) with materials and utility equipment resistant to flood damage;
- (b) using methods and practices that minimize flood damage;
- (c) with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
- (d) within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

32.17.003 - Elevation and Floodproofing

(See Section 32.05, 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:

1. In AE, AH, A1-30 Zones, elevated to at least *one foot* above the base flood elevation.
2. In an AO zone, elevated above the highest adjacent grade to a height at least *one foot* above the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
3. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to at least *one foot* above the base flood elevation; as determined under Section 32.15.002.

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

(b) **Nonresidential Construction.**

All new construction or substantial improvements of nonresidential construction shall either be elevated to conform with Subsection 32.17.003(a), or

1. be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Subsection 32.17.003(a) so that the structure is watertight with walls substantially impermeable to the passage of water; and
2. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. be certified by a registered professional engineer or architect that the standards of this Subsection 32.17.003(b) are satisfied. Such certification shall be provided to the Floodplain Administrator.

(c) **Garages and low cost accessory structures.**

1. Attached garages.
 - (A.) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 32.17.004. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 32.17.002
 - (B.) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6
2. Detached garages and accessory structures.
 - (A.) An "accessory structure," as defined in section 32.05., may be constructed such that its lowest floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - i.) Accessory structures shall be no larger than 1000 square feet, except in the case of barns located on lands in the Agriculture zoning district.

- ii.) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
- iii.) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
- iv.) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
- v.) The accessory structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 32.17.004.

(B.) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 32.17.003(a).

(d) **Mixed-Use Construction and Hotels/Motels**

All new construction or substantial improvement of mixed-use structures or hotel/motels shall either be:

- 1. elevated to conform with Section 32.17.003(a), or
- 2. designed and constructed such that the lowest floor of habitable areas are elevated to at least *one foot* above the base flood elevation while non-habitable areas below the base flood elevation may be treated either as non-residential construction under the provisions of Section 32.17.003(b) or as a fully enclosed area below the base flood elevation used solely for the parking of vehicles or building access/storage under the provisions of Section 32.17.004.

(e) **Manufactured Homes**

See section 32.20.

32.17.004 - Flood Openings.

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for meeting this requirement must meet or exceed the following minimum criteria:

- (a) For non-engineered openings:
 - 1. have a minimum of two openings on two different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - 2. the bottom of all openings shall be no higher than one foot above grade; and
 - 3. openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
 - 4. buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
- (b) Be certified by a registered civil engineer or architect.

32.18 - Standards for Utilities

- (a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - 1. infiltration of flood waters into the systems; and
 - 2. discharge from the systems into flood waters.
- (b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

32.19 - Standards for Subdivisions

- (a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- (b) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

32.20 - Standards for Manufactured Homes

- (a) 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:
 - 1. outside of a manufactured home park or subdivision;
 - 2. in a new manufactured home park or subdivision;
 - 3. in an expansion to an existing manufactured home park or subdivision; or
 - 4. in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood,

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least *one foot* above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (b) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 32.20(a) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 - 1. lowest floor of the manufactured home is at least *one foot* above the base flood elevation, or

2. manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade so long as the BFE is no higher than 24 inches above grade.

Additional guidance may be found in FEMA Technical Bulletins TB 1-93 and TB 7-93.

32.21 - Standards for Recreational Vehicles

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

- (a) be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use -- a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices) and has no permanently attached additions; or
- (b) meet the permit requirements of Sections 32.13 through 32.16 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 32.20(a).

32.22 - Floodways

Located within areas of special flood hazard established in Section 32.07 may be areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply.

- (a) Within an adopted regulatory floodway, Sierra County shall prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in [the base] flood elevation during the occurrence of the base flood discharge.
- (b) If Section 32.22(a) is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Sections 32.13 through 32.16.

32.23 - Nature Of Variances

The variance criteria set forth in this Section of the ordinance 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 ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

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

32.24 - Conditions for Variances

- (a) Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 32.13 through 32.22 of this ordinance 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 also be issued for the repair or rehabilitation of “historic structures” (as defined in Subsection 32.05.027 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (c) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (d) Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the Sierra County Planning Commission or Board of Supervisors 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 Sierra County Planning Commission or Board of Supervisors believes will both provide relief and preserve the integrity of the local ordinance.
- (e) Variances shall only be issued upon a:
 - 1. showing of good and sufficient cause;
 - 2. determination that failure to grant the variance would result in exceptional “hardship” (as defined in Subsection 32.05.024 of this ordinance) to the applicant; and
 - 3. determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 32.05 - see “public safety or nuisance”), cause fraud or victimization (as defined in Section 32.05) of the public, or conflict with existing local laws or ordinances.
- (f) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Sections 32.25(a) through 32.25(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.
- (g) Upon consideration of the factors of Section 32.24(a) and the purposes of this ordinance, the Sierra County Planning Commission or Board of Supervisors may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

32.25 – Considerations for Approval of Variances

- (a) In reviewing requests for variances, the Sierra County Planning Commission shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this ordinance, and the:
 - 1. danger that materials may be swept onto other lands to the injury of others;
 - 2. danger of life and property due to flooding or erosion damage;
 - 3. susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

4. importance of the services provided by the proposed facility to the community;
 5. necessity to the facility of a waterfront location, where applicable;
 6. availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. compatibility of the proposed use with existing and anticipated development;
 8. relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 11. 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.
- (b) Any applicant to whom a variance is granted shall be given written notice, upon the signature of the Floodplain Administrator that:
1. the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 2. such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Sierra County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (c) The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

32.26 – Appeal Process

- (a) Hearings and appeals shall be conducted in accordance with Sierra County Code Sections 20.11 through 20.13.

(Ord. 1006, eff. 12/18/2008; prior Ord. 808, eff. 11/18/1993, Ord. 902, eff. 7/6/2000)