

CHAPTER 5. SITE DEVELOPMENT STANDARDS

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5.10 Flood Hazard Area Use Control

Sections:

- 5.10.010 - Statutory Authorization, Findings of Fact, Purpose and Methods
- 5.10.020 - Definitions
- 5.10.030 - General Provisions
- 5.10.040 - Administration
- 5.10.050 - Provisions for Flood Hazard Reduction
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5.10.010 Statutory Authorization, Findings of Fact, Purpose and Methods

- A. Statutory Authorization.** The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Council does hereby adopt the following floodplain management regulations.
- B. Finding of Fact.**
1. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 2. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.
- C. Statement of Purpose.** It is the purpose of this Section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e. mudlow) or flood related erosion areas. These regulations are designed to:
1. Protect human life and health;
 2. Minimize expenditure of public money for costly control projects;
 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. Minimize prolonged business interruptions;

5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the area of special flood hazard assume responsibility for their actions.

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

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
4. Control filling, grading, dredging, and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

5.10.020 Definitions

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

A zone - see "Special flood hazard area" as defined in this Section.

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

1. Solely for the parking of no more than 2 cars; or limited storage (small, low cost sheds); and
2. Having a gross floor area of 120 square feet or less.

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

Alluvial fan means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is

subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

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

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

Area of special flood hazard - See "Special flood hazard area" as defined in this Section.

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

Base flood elevation (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH and VE 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 are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

Building - see "Structure" as defined in this Section.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area

subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone VE, or V.

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.

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.

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 July 6, 1993.

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).

Flood, flooding, or flood water means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
2. The condition resulting from flood-related erosion.

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

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

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

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source - see "Flooding" as defined in this Section.

Floodplain Administrator is the community official designated by title 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 Section 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.

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. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

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

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

Fraud and victimization as related to Subsection 5.10.060.C, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

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

Governing body is the City, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

Hardship as related to Subsection 5.10.060.C means the exceptional hardship that would result from a failure to grant the requested variance. The Council requires that the variance be exceptional, unusual, and peculiar to the property involved. More 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 construction 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 Department of 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 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 without approved programs.

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

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

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

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - a. The flood openings standard in Subsection 5.10.050.A.3.c;
 - b. The anchoring standards in Subsection 5.10.050.A.1;
 - c. The construction materials and methods standards in Subsection 5.10.050.A.2; and
 - d. The standards for utilities in Subsection 5.10.050.B.

2. 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.

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".

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 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 report prepared by an independent professional appraiser. See Subsection 5.10.040.B.2.a.

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 elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction, for floodplain management purposes, means structures for which the "start of construction" commenced on or after July 6, 1993, and includes any subsequent improvements to such structures.

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 July 6, 1993.

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.

One-hundred-year flood or 100-year flood - see "**Base flood**" as defined in this Section.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

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

Public safety and nuisance as related to Subsection 5.10.060.C, 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, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less 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 the Section 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.

Sand dunes mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Sheet flow area - see "Area of shallow flooding" as defined in this Section.

Special flood hazard area (SFHA) means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, AE, AH, 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 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing,

grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building 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 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement 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:

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

V zone - see "Coastal high hazard area" as defined in this Section.

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

Violation means the failure of a structure or other development to be fully compliant with this Section. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section 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.

5.10.030 General Provisions

- A. Lands to which this Section applies.** This Section shall apply to all areas of special flood hazards within the jurisdiction of the City.
- B. Basics for establishing the areas of special flood hazards.** The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the “Flood Insurance Study (FIS) for San Luis Obispo County, California and Incorporated Areas” dated August 28, 2008, with accompanying Flood Insurance Rate Maps (FIRM’s) and Flood Boundary and Floodway Maps (FBFM’s), dated August 28, 2008, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Section. This FIS and attendant mapping is the minimum area of applicability of this Section and may be supplemented by studies for other areas which allow implementation of this Section and which are recommended to the Council by the Floodplain Administrator. The study, FIRM’s and FBFM’s are on file at the City of Grover Beach Community Development Department, 154 South Eighth Street, Grover Beach, California.
- C. Compliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Section and other applicable regulations. Violation of the requirements of this Section (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the Council from taking such lawful action as is necessary to prevent or remedy any violation.
- D. Abrogation and greater restrictions.** This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section 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 Section, 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 Section 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 Section 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 Section shall not create liability on the part of the City, any elected or appointed official, officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for

any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

- G. Severability.** This Section and the various Subsections thereof are hereby declared to be severable. Should any Subsection of this Section be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Section as a whole, or any portion thereof other than the Subsection so declared to be unconstitutional or invalid.

5.10.040 Administration

- A. Designation of the floodplain administrator.** The Community Development Director in cooperation with the City Engineer is hereby appointed to administer, implement, and enforce this Section by granting or denying development permits in accord with its provisions.
- B. Duties and responsibilities of the floodplain administrator.** The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:
1. **Permit Review.** Review all development permits to determine:
 - a. Permit requirements of this Section have been satisfied, including determination of substantial improvement and substantial damage or existing structures;
 - b. All other required state and federal permits have been obtained;
 - c. This site is reasonably safe from flooding;
 - d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City; 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.
 2. **Development of Substantial Improvement and Substantial Damage Procedures.**
 - a. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."

- b. Assure procedures are coordinated with other departments/divisions and implemented by community staff.
3. **Review, Use and Development of Other Base Flood Data.** When base flood elevation data has not been provided in accordance with Subsection 5.10.030.B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Article V of this Section.

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

4. **Notification of Other Agencies.**

- a. Alteration or relocation of a watercourse:
 - (1) Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - (2) Submit evidence of such notification to the Federal Emergency Management Agency; and
 - (3) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
- b. Base Flood Elevation changes due to physical alterations:
 - (1) 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).
 - (2) All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

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

- c. Changes in corporate boundaries: Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.
5. **Documentation of Floodplain Development.** Obtain and maintain for public inspection and make available as needed the following:
- a. Certification required by Subsection 5.10.050.A.3.a and Subsection 5.10.050.D (lowest floor elevations);

- b. Certification required by Subsection 5.10.050.A.3.b (elevation or floodproofing of nonresidential structures);
 - c. Certification required by Subsection 5.10.050.A.3.c (wet floodproofing standard);
 - d. Certification of elevation requires by Subsection 5.10.050.C.1.c (subdivisions and other proposed development standards);
 - e. Certification required by Subsection 5.10.050.F.2 (floodway encroachments);
 - f. Information required by Subsection 5.10.050.G.6 (coastal construction standards); and
 - g. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.
6. **Map Determination.** Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection 5.10.040.D.
7. **Remedial Action.** Take action to remedy violations of this Section as specified in Subsection 5.10.030.C.
8. **Biennial Report.** Complete and submit Biennial Report to FEMA.
9. **Planning.** Assume the City's General Plan is consistent with floodplain management objectives herein.
- C. Development Permit.** A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Subsection 5.10.030.B. Application for a development permit shall be made on forms furnished by the Community Development Department of the City. The applicant shall provide the following minimum information:
- 1. Plans in duplicate, drawn to scale, showing:
 - a. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their locations;
 - b. Proposed locations of water supply, sanitary sewer, and other utilities;
 - c. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - d. Location of the regulatory floodway when applicable;
 - e. Base flood elevation information as specified in Subsection 5.10.030.B or Subsection 5.10.040.B.3;
 - f. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

- g. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Subsection 5.10.050.A.3.b of this Section and detailed in FEMA Technical Bulletin TB 3-93.
2. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Subsection 5.10.050.A.3.b.
3. For a crawl-space foundation, location and total net area of foundation openings as required in Subsection 5.10.050.A.3.c of this Section and detailed in FEMA Technical Bulletins 1-93 and 7-93.
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
5. All appropriate certifications listed in Subsection 5.10.040.B.5 of this Section.

5.10.050 Provisions for Flood Hazard Reduction

- A. Standards of Construction.** In all areas of special flood hazards the following standards are required:
1. **Anchoring.** All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 2. **Construction Materials and Methods.** All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:
 - a. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
 - b. Using methods and practices that minimize flood damage;
 - c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - d. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
 3. **Elevation and Floodproofing.**
 - a. **Residential construction.** All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:
 - (1) In AE, AH, A Zones, elevated to one foot above the base flood elevation.
 - (2) 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.

- (3) In an A zone, without BFE's specified on the FIRM, elevated to or above the base flood elevation; as determined under Subsection 5.10.040.B.3.

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

- b. **Nonresidential construction.** All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Subsection 5.10.050.A.3.a or:

- (1) Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Subsection 5.10.050.A.3.a, so that the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) Be certified by a registered civil engineer or architect that the standards of Subsection 5.10.050.A.3.b.(1) & (2) are satisfied. Such certification shall be provided to the Floodplain Administrator.

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

- (1) For non-engineered opening:
 - (a) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (b) The bottom of all openings shall be no higher than one foot above grade;
 - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
 - (d) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter and exit; or

- (2) Be certified by a registered civil engineer or architect.
- d. **Manufactured homes.** See Subsection 5.10.050.D.
- e. **Garage 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 Subsection 5.10.050.A.3.c. Areas of the garage below the BFE must be constructed with flood resistant materials. See Subsection 5.10.050.A.2.
 - (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) "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Article II, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - i. Use of the accessory structure must be limited to parking or limited storage;
 - 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 comply with floodplain encroachment provisions in Subsection 5.10.050.F; and
 - vi. The accessory structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Subsection 5.10.050.A.3.c.
 - (b) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Subsection 5.10.050.A.
- f. **Crawlspace construction.** This Subsection applies to buildings with crawl spaces up to two feet below grade. Below-grade crawl space construction in accordance with the requirements listed below will not be considered basements.

- (1) The building must 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. Crawl space construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer;
- (2) The crawl space is an enclosed area below the BFE and, as such, must 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 1-93;
- (3) Crawl space construction is not permitted in V zones. Open pile or column foundations that withstand storm surge and wave forces are required in V zones;
- (4) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE; and
- (5) Any building utility systems within the crawl space must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- (6) Requirements for all below-grade crawl space construction, in addition to the above requirements, to include the following:
 - (a) The interior grade of a crawl space below the BFE must not be more than two feet below the lowest adjacent exterior grade (LAG), shown as D in figure 3 of FEMA Technical Bulletin 11-01;
 - (b) The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall must not exceed four feet (shown as L in figure 3 of FEMA Technical Bulletin 11-01) at any point;
 - (c) There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space within a reasonable period of time after a flood event, not to exceed 72 hours; and
 - (d) The velocity of floodwaters at the site should not exceed five feet per second for any crawl space. For velocities in excess of five feet per second, other foundation types should be used.

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - a. Infiltration of flood waters into the systems; and

- b. Discharge from the systems into flood waters.
 2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.
- C. Standards for Subdivisions and Other Proposed Development.**
 1. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
 - a. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - b. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 - c. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 - (1) Lowest floor elevation.
 - (2) Pad elevation.
 - (3) Lowest adjacent grade.
 2. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
 3. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 4. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.
- D. Standards for Manufactured Homes.**
 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 Zones A, AH, AO, and AE on the community's Flood Insurance Rate Map, 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.
 - b. Within Zones V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Subsection 5.10.050.G.

2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, AH, AE, AO, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Subsection 5.10.050.D.1 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 one foot above the base flood elevation; or
 - b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

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

E. Standards for Recreational Vehicles.

1. All recreational vehicles placed in Zones A, AH, AO, AE, V and VE will either:
 - a. Be on the site for fewer than 180 consecutive days; or
 - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the permit requirements of Subsection 5.10.040.C of this Section and the elevation and anchoring requirements for manufactured homes in Subsection 5.10.050.D.
2. Recreational vehicles placed on sites within Zones V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Subsection 5.10.050.E.1 and Subsection 5.10.050.G.
3. Owners of recreational vehicle parks and owners of manufactured home parks that allow placement of recreational vehicles must notify the Floodplain Administrator prior to placing any new recreational vehicle, altering any existing recreational vehicle, allowing the placement or alteration of, or allowing any recreational vehicle to remain on site for more than 180 consecutive days, such that the recreational vehicle fails to meet the requirements of Subsections 5.10.050.E.1. a and b. The owner of a recreational vehicle that fails to meet the requirements of Subsections 5.10.050.E.1. a and b must apply for a city recreational vehicle permit and provide certification from an approved special inspector that the recreational vehicle complies with the requirements of Subsection 5.10.050.E.1.c and 5.10.050.E.2.

4. The owner of the recreational vehicle subject to the permit requirements of Subsection 5.10.050.E.3 shall at the time of application for the permit, pay to the City a processing fee in an amount established by resolution of the Council.

F. Floodways. Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City.
2. Within an adopted regulatory floodway, the City shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
3. If Subsections 5.10.050.F.1 & 2 are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Article V.

G. Coastal High Hazard Areas. Within coastal high hazard areas, Zones V, and VE, as established under Subsection 5.10.030.B, the following standards shall apply:

1. All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or city building standards.
2. All new construction and other development shall be located on the landward side of the reach of mean high tide.
3. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Article II of this Section. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
4. Fill shall not be used for structural support of buildings.
5. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

6. The Floodplain Administrator shall obtain and maintain the following records:
 - a. Certification by a registered engineer or architect that a proposed structure complies with Subsection 5.10.050.G.1; and
 - b. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

5.10.060 Variance Procedure

A. Nature of variances.

1. The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
2. The variance criteria set forth in this Subsection of 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 Section 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.
3. The city should 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 must be 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 Section are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

B. Conditions for variances.

1. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Subsection 5.10.040 and 5.10.050 of this Section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Subsection 5.10.020 of this Section) 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.

3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
4. Variance 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 Section. For example, in the case of variances to an elevation requirement, this means the Commission 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 Commission believes will both provide relief and preserve the integrity of the local ordinance.
5. Any applicant to whom a variance is granted shall be given written notice over the signature of the Floodplain Administrator that:
 - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 - b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County of San Luis Obispo Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
6. The Floodplain Administrator 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 Emergency Management Agency.

C. Appeal board.

1. In passing upon requests for variances, the Commission shall consider all technical evaluations, all relevant factors, standards specified in other Subsections of this Section, and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger of life and property due to flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

- g. Compatibility of the proposed use with existing and anticipated development;
 - h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
2. Variances shall only be issued upon a:
- a. Showing of good and sufficient cause;
 - b. Determine that failure to grant the variance would result in exceptional "hardship" to the applicant; and
 - c. Determine 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 (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.
3. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Subsections 5.10.060.C.1 through 5.10.060.C.4 are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
4. Upon consideration of the factors of Subsection 5.10.060.B.1 and the purposes of this Section, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.

5.20 Street Improvements

Sections:

- 5.20.010 - Applicability
- 5.20.020 - Timing
- 5.20.030 - Council Authority
- 5.20.040 - Street Conform
- 5.20.050 - Extent of Street Conform

5.20.010 Applicability

This Section shall apply in all zones to any project that requires a building permit.

- A.** All new construction of single-family residential buildings, or structures, shall install curb, gutter and sidewalk, as well as a street conform. The applicant for one single-family residential building or structure shall be responsible for up to the first 11 feet of street conform and the City will be responsible for any part of the street conform that is required to be wider than 11 feet. These public improvements shall be designed or approved by the City Engineer at the property owner's expense.
- B.** All new construction, remodeling of, or additions to commercial, industrial or multi-family residential buildings, or structures, shall install curb, gutter and sidewalk, as well as a street conform. These public improvements shall be designed or approved by the City Engineer at the property owner's expense.
- C.** Single-family dwelling remodels or additions shall install curb, gutter, and sidewalk, as well as a street conform of no more than an average of four feet from gutter lip when the aggregate square footage of the remodel or addition is an amount equal to 40 percent or greater of the existing square footage. See Figures 5.1 and 5.2 for examples of calculations. The City will be responsible for any part of the conform that is required to be wider than four feet.

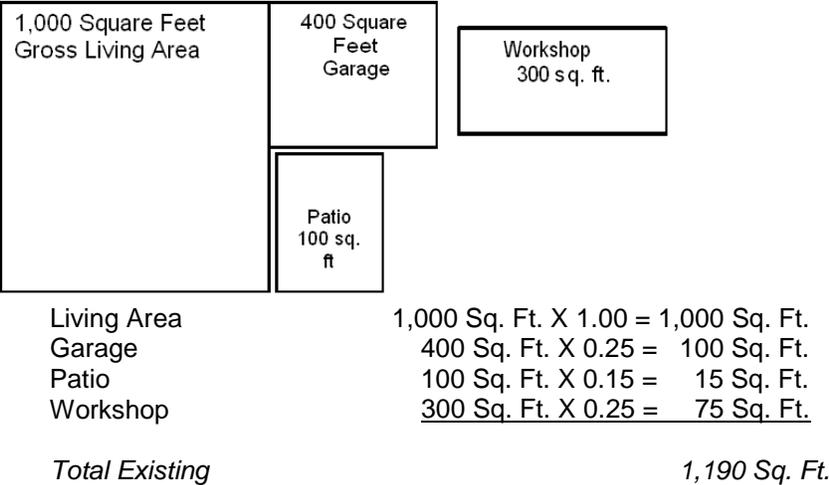
The following multipliers shall be applied when calculating aggregate square footage:

- | | |
|---|------|
| 1. Gross living area | 1.00 |
| 2. Garage, workshops, and other accessory structures | 0.25 |
| 3. Porches, patios, gazebos, and similar structures as
may be determined by the Director | 0.15 |

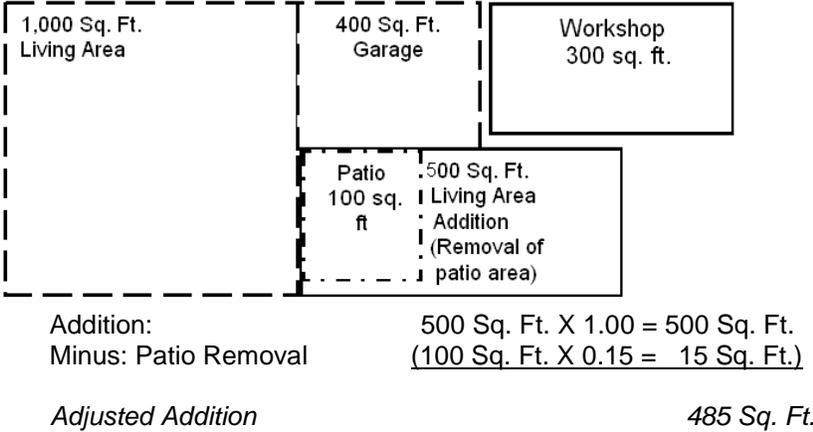
The calculations will be applicable to the combined square footage of all building permits issued for the address or site within the last five years.

Figure 5.1. An example of when curb, gutter and sidewalk installation is required for single-family residential is presented below:

Existing Improvements



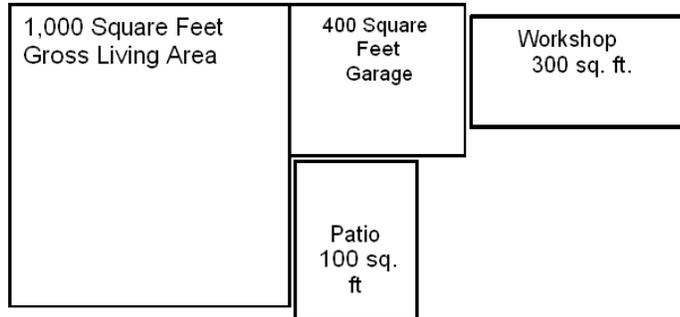
Proposed Improvements



Percentage Calculation: 485 Sq. Ft. Addition / 1,190 Sq. Ft. Existing = 40.8%

Figure 5.2. An example of when curb, gutter and sidewalk installation is not required for single-family residential is presented below:

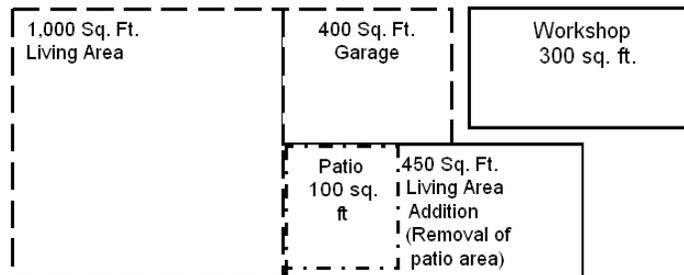
Existing Improvements



Living Area	1,000 Sq. Ft. X 1.00 = 1,000 Sq. Ft.
Garage	400 Sq. Ft. X 0.25 = 100 Sq. Ft.
Patio	100 Sq. Ft. X 0.15 = 15 Sq. Ft.
Workshop	<u>300 Sq. Ft. X 0.25 = 75 Sq. Ft.</u>

Total 1,190 Sq. Ft.

Proposed Improvements



Addition:	450 Sq. Ft. X 1.00 = 450 Sq. Ft.
Minus: Patio Removal	<u>(100 Sq. Ft. X 0.15 = 15 Sq. Ft.)</u>

Adjusted Addition 435 Sq. Ft.

Percentage Calculation: 435 Sq. Ft. Addition / 1,190 Sq. Ft. Existing = 36.6%

- D. For projects consisting of more than one residential dwelling or any commercial remodel, the developer shall be required, in cases where the existing street condition is determined to be at a pavement condition less than 60 on the Pavement Management System (PMS) rating, to reconstruct the street to the centerline of the street, even though curb, gutter and sidewalk may already exist on the project frontage.

- E. If existing curb, gutter or sidewalk is found to be in unsatisfactory condition fronting any commercial or multi-family project, then the applicant or developer shall be required to replace the defective portions of said improvements in accordance with City Standards.

5.20.020 Timing

In cases where this Section is applicable, the owner or person applying for such permit shall install curb, gutters, and sidewalks, as well as street conform, in accordance with Subsection 5.20.010 (A) along all streets abutting such property prior to the issuance of a certificate of final inspection on a Building Permit or other certificate of compliance with applicable permit conditions. The owner or person installing curb, gutter and sidewalk shall also be required to construct a street conform per the City Engineer's requirements consistent with Subsection 5.20.010 (A).

5.20.030 Council Authority

- A. The Council may waive all or part of the requirements of this Section upon application for such waiver in cases where in the sole discretion of the Council the strict application of this Section would create substantial hardship, would be impractical, or would not be in the best interests of the City or the public.
- B. The Council may extend the time for compliance with the provisions of this Section and may require such cash or other bond as it deems suitable to guarantee compliance with this Section within such time limit as it may specify.
- C. No filing fee shall be required for the application to the Council under this Section.
- D. No improvements referred to in this Section shall be constructed until curb grades have been approved by the City.
- E. Each request for waiver of the requirements of this Section shall be acted upon independently by the Council based upon the particular facts involved.

5.20.040 Street Conform

- A. As required by Subsection 5.20.010 (A), the applicant or property owner shall install a street conform when new or replacement curb, gutter and sidewalk is required. In some cases these provisions apply even when curb, gutter and sidewalk may already exist. The street conform shall be designed and/or approved by the City Engineer at the property owner's expense.
- B. A street conform is that portion of new street built between the gutter lip that meets or conforms to existing paving in a safe manner. The resulting slope between the new gutter lip and the existing street at the conform point is called the "cross fall". A maximum safe cross fall shall not exceed ten percent and a usual cross fall will range from two percent to five percent as approved by the City Engineer.

5.20.050 **Extent of Street Conform**

The extent of the required street conform is dependent on the size and character of the project and the existing condition of the subject street(s). The Pavement Management System (PMS) street rating (0-100) shall be used to determine the existing street condition. On corner lots, the requirements are applicable to both streets abutting the property.

- A.** For projects consisting of one single-family dwelling:
 - 1. Pavements rated at 0-100 will require construction/reconstruction only to the conform point as approved by the City Engineer, or for up to the first 11 feet of width, whichever is less. In the event that a conform wider than 11 feet is required, the City shall be responsible for that portion which is wider than 11 feet.
- B.** For projects consisting of more than one single-family dwelling or any commercial development, including commercial remodels or additions:
 - 1. Pavements rated at 60-100, as verified by the City Engineer, will require construction/reconstruction only to the conform point as approved by the City Engineer. In some cases, the conform point could be all the way to the centerline of the street. If the Pavement Management System (PMS) street rating is 0-59, as verified by the City Engineer, then construction/reconstruction shall be required all the way to the centerline of the street regardless of the conform point. These provisions apply even though curb, gutter, and sidewalk may already exist.
- C.** For projects consisting of one single-family dwelling remodel or addition of 40% or more increase in floor area:
 - 1. Pavement shall be required to be constructed or reconstructed to the conform point, but not more than an average of four feet beyond the lip of gutter as approved by the City Engineer. The City shall be responsible for any part of the conform that is required to be wider than four feet.
- D.** If a second single-family dwelling is constructed on the same parcel within two years after the completion of the first single-family dwelling, then that project shall be considered as more than one single-family dwelling and the provisions of this Section shall apply as to "more than one single-family dwelling". (Am. Ord. 04-14; Am. Ord. 09-01)

5.30 Street Tree Regulations

Sections:

- 5.30.010 - Street Tree Policy Purpose and Intent
- 5.30.020 - Definitions
- 5.30.030 - Enforcing Authority
- 5.30.040 - Master Tree List
- 5.30.050 - Street Tree Planting Plan Standards
- 5.30.060 - Street Tree Maintenance and Inspection
- 5.30.070 - Removal of Trees
- 5.30.080 - Removal of Trees Prohibited Without a Permit
- 5.30.090 - Subdivision Street Tree Planting
- 5.30.100 - Control of Trees on Easements
- 5.30.110 - Street Tree Planting Standards
- 5.30.120 - Protection of Street Trees Prohibitions
- 5.30.130 - Public Utilities
- 5.30.140 - Sidewalk, Curb and Gutter Determinations
- 5.30.150 - Appeals
- 5.30.160 - Non-liability of City

5.30.010 Street Tree Policy Purpose and Intent

It is hereby declared that the public interest and welfare requires that the City establish, adopt and maintain a comprehensive program for the installation, maintenance and preservation of trees within the City.

This Section provides policies, regulations and specifications necessary to govern installation, maintenance and preservation of trees to beautify the City, purify its air, provide shade, wind protection and preserve trees with historic and unusual value for the inhabitants of this City, subject to the availability of City funds for such purposes.

It is hereby declared to be the policy of the City to line its streets with trees and to provide a consistent and adequate program for maintenance and preservation of such trees. This policy provides for the planting of trees in all areas of the City, and for the selection of appropriate species to achieve as much uniformity as possible for beauty and economy.

5.30.020 Definitions

The following words and phrases used in this Section, unless a different meaning is clearly required by the context, shall have the following meanings:

Planting Strip shall mean the area available for planting between the street curb, or place where the curb should be, and the property line.

Planting shall mean planting and replacement of planting strips.

Maintain or Maintenance shall mean the entire care of trees in planting strips, as well as the preparation of ground, fertilizing, mulching, watering, unless specifically so stated.

Tree shall be defined as any woody plant characterized by having a single trunk of at least three inches in diameter at breast height (4-1/2 feet), or a multi-stemmed trunk system with a more or less definitely formed crown. This shall also include any tree that has been placed by the City that has not yet obtained the stated size.

Public Streets or Streets shall include all roads, streets, avenues, boulevards, alleys and parkways, or portion thereof, of the city.

Park Director shall mean the Parks and Recreation Director of the City.

Undeveloped Parcel as used in this Section shall be any lot, or portion of lot, which can be further subdivided or intensively developed in accordance with this Section.

5.30.030 Enforcing Authority

The Park Director, or his duly authorized representative, shall be charged with the enforcement of this Section.

The Parks and Recreation Commission shall be responsible for reviewing all required fee schedules for the planting of street trees. The Parks, Recreation and Beautification Commission shall advise the Park Director and made recommendations to the Council concerning required street trees.

5.30.040 Master Tree List

The Parks and Recreation Commission is hereby charged with the duty of promptly determining the types and species of trees suitable and desirable for planting and the areas in which, and conditions under which, such trees shall be planted in or which may overhang the public streets within the City. The Parks, Recreation and Beautification Commission shall also recommend a Tree Planting Plan setting forth the types of trees to be planted in different portions of the City and a recommended program of tree planting by the City. When such determination has been made, the Parks, Recreation and Beautification Commission shall report its findings in writing to the Council. When approved by the Council said reports shall be known as the Master Tree List and Master Plan. The List and Plan shall be placed on file with the City Clerk. Revisions or changes in said List or Plan may be amended from time to time by the Parks, Recreation and Beautification Commission in the matter described hereinabove.

5.30.050 Street Tree Planting Plan Standards

- A. The planting of trees in or within five feet of the public street right-of-way of the City shall be governed by the general and specific tree plan.

- B.** The Parks and Recreation Commission shall be guided by and apply the following standards in formulating and approving a street tree plan.
 1. The prime purpose of beauty, shade, and/or wind protection shall always be observed.
 2. The location of specific trees shall be at specified intervals with consideration given to avoiding or minimizing interference by the trees with existing or planned utilities, driveway approaches, street intersections and building exposures.
 3. No tree shall be planted within 35 feet of any corner of any intersection unless approved by the City Engineer.
 4. Selection and spacing of a particular species of tree for a specific block, a street, or section of the City shall be based upon the nature of the species and the width of the planting strip, soil conditions, zoning regulations, street patterns, building setbacks, utilities, and the availability of the particular species.
 5. All trees hereafter planted in or within five feet of the public street right-of-way of the City must be on the Master List, unless a written permit from the Park Director shall have first been obtained to plant a tree not on said list. Such permit shall set forth the type of tree, method of planting and maintenance, and any other conditions deemed proper by the Director for planting of such tree, and the person obtaining such permit shall comply with all the terms and conditions thereof.
- C.** The Public Works Department shall assume the responsibility of furnishing and planting all new City street trees. Subdivisions shall be assessed a fee per lineal foot of street frontage per lot for this planting service. Said fee shall be established by the Parks and Recreation Commission and approved by the Council.

5.30.060 Street Tree Maintenance and Inspection

The Park Director shall have supervision, direction and control of the care, trimming, removal, relocation and replacement of trees in the streets or public property owned or under the control of the City. It shall be unlawful for any person to cut, trim, prune, spray, brace, or in any other manner to destroy or seriously damage any tree in the public street area or upon property owner or controlled by the City.

- A.** Upon discovering that any such trees are infected or infested with insects, pests, or disease, the Park Director shall cause such conditions to be treated, or if any trees are so infected or infested to such a degree that such conditions cannot be eradicated by treatment, the Director may order the removal and replacement of any such trees.
- B.** Street trees shall be maintained as follows: Surface roots of young trees in process of development shall be removed to prevent future sidewalk, curb and gutter damage. Overhead limbs shall be pruned proportionately to compensate for root loss. Upon reaching maturity, trees shall be pruned or trimmed to not less than seven feet above ground in residential areas, and to not less than ten feet above the ground in

commercial areas. Small trees and young trees during the process of development shall be properly shaped and trimmed to provide adequate sidewalk and street clearance.

- C. In the event any tree, shrub, or plant in any street in the City or any tree, shrub or plant standing on any private property, overhanging or projecting into any street or public place appears to be dead, liable to fall, dangerous, an obstruction to public travel or is not pruned or trimmed to not less than seven feet above a sidewalk in residential areas or ten feet in commercial areas, the Park Director may cause the same or such part or parts thereof as dead, liable to fall, dangerous, or an obstruction to such public travel, or is not so trimmed, to be cut down, and if in the street, to be removed there from; provided that, except in case of manifest public danger and immediate necessity, no such trees or shrubs standing on any private property shall be completely cut down or removed unless ten days' notice in writing be given by the Park Director to the owner or occupant of such property.

5.30.070 Removal of Trees

- A. **Private Property:** Any tree growing on private property which is endangering or, in the opinion of the Park Director, constitutes danger to public streets or public places, or which in any way endangers the usefulness of a public sewer or public utility, shall be removed or trimmed by the owner of the property within 14 days after receipt of such notice from the Park Director. In the event the property owner fails to remove or trim such trees within said time, the Park Director may then remove or trim said tree, and assess the cost thereof against the property owner, ten days prior notice of the hearing before the Council, subject to the right of the property owner to appeal the amount of said assessment to the Council within two days after notice thereof to the property owner. Such cost shall become a lien on the property and the resolution assessing such costs shall be recorded with the County Recorder's Office, or may be collected by court action.
- B. It shall be unlawful for any person, firm, partnership, corporation or other legal entity whatever, to remove, or cause to be removed, any tree from any undeveloped parcel of property without a permit, as provided herein.
- C. **Streets and Public Places:** No tree shall be removed from any public street or property owned or under the control of the City without the prior written consent of the Park Director. Such consent shall only be granted if the tree constitutes a hazard to property or persons using the adjoining streets, if its roots are causing excessive damage to the curb, gutters or sidewalks, or if it unduly interferes with the sewer system and public utilities. Any tree being removed for the benefit of the property owner shall be removed and replaced with an approved tree at the owner's expense.
- D. Any tree planted by the City in the City right-of-way or required by the City in the public right-of-way after the effective date of this ordinance, that must be removed because of type, growth habits or disease that do not meet future City standards,

shall be removed at City expense and replaced at the Park Director's discretion, subject to the availability of City funds.

- E.** Acceptable reasons for City removal on streets and public places:
1. Dead trees;
 2. Dying, decayed or hazardous trees;
 3. Trees that must be removed for sidewalks or curb repair;
 4. Trees diseased beyond reclamation;
 5. Thinning to approved spacing.
 6. Acceptable reasons for property owner removal:
 7. Trees directly in the way of new sidewalks, curbs, or driveway approaches;
 8. Trees in way of house moving (undesirable species only).

5.30.080 Removal of Trees Prohibited Without a Permit

It shall be unlawful for any person, firm, partnership, corporation or other legal entity whatever, to remove, or cause to be removed, any tree from any undeveloped parcel of property without a permit as provided herein.

A. Permits.

1. Any person, firm, partnership, corporation or other legal entity, or agent of any such person desiring to remove one or more trees on any undeveloped parcel in the City shall apply in writing to the Parks and Recreation Director for a permit. Said application shall contain the number and a plot plan showing the location of the trees to be cut or removed and a brief statement of the reason for removal, as well as any other pertinent information the Parks and Recreation Director may require. On receipt of such application, the Parks and Recreation Director will inspect the premises and determine which trees may be removed.
2. The determination of the Parks and Recreation Director shall be based upon the following criteria:
 - a. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility service;
 - b. Necessity to remove trees in order to construct proposed improvements to allow economic enjoyment of the property;
 - c. Topography of the land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface waters;
 - d. Number of trees existing in the neighborhood on improved property. The Parks and Recreation Director shall be guided by the standards established in the neighborhood;

- e. Good horticultural practices, i.e., the number of healthy trees that a given parcel of land will support.

The Parks and Recreation Director shall give priority of inspection to those requests based on hazard, danger or disease. The Parks and Recreation Director may also refer any request to another Department, Board, Commission, Council, or Committee for report or recommendation.

In case of emergency caused by the tree being in a hazardous or dangerous condition, such tree may be removed by order (direction) of the Public Works Department.

B. Subdivisions.

1. All subdivision maps for five or more lots filed for tentative approval shall designate clearly any trees upon the property. Any trees upon the property which are to be removed shall be clearly designated upon the tentative subdivision map. Tentative approval of the map by the Parks and Recreation Commission shall constitute a recommendation to the Council to permit removal of any trees so designated.

C. Historic or heritage Tree.

1. Historic or heritage tree shall mean any tree existing within the City which has been found by the Parks and Recreation Commission to be a tree of notable historic interest or high value type, size or historic associations and has been designated by resolution of the Council, on advice of the Parks, Recreation and Beautification Commission, as an historic or heritage tree.

All persons owning property upon which trees so designated exist shall be informed as to the status of these trees and the restrictions related to their care and removal. No tree designated as an historical or heritage tree shall be removed from the site without the prior approval of the Parks and Recreation Commission. This shall include the site of a proposed subdivision or any undeveloped parcel.

5.30.090 Subdivision Street Tree Planting

The cost for planting and maintenance of street trees for one year in new subdivisions shall be borne by the subdivider as established in Subsection 3.60.050(C).

This cost shall be determined from the official fee schedule of the City. This fee shall be reviewed as necessary in order to adjust to planting and maintenance cost.

The Parks and Recreation Commission shall, as soon as the basic subdivision improvements are approved, determine the species of tree, the specific locations and any other pertinent information that may be required before the trees are planted. The trees shall be planted after these determinations are made.

The subdivider shall be held responsible for any damage that occurs to any tree on the site where his construction is taking place during the period of time between planting of

the street tree and final acceptance of the structure by the Community Development Department. Any damage to the trees shall be charged to the subdivider. Any tree that is destroyed in the process of construction shall be replaced with a tree of the same species and of the same size at the time the tree was destroyed. The subdivider shall be responsible for all costs.

5.30.100 Control of Trees on Easements

All existing trees located within public easements shall be so maintained by the owner of the property so as to prevent the roots from interfering with public pipelines and the limbs and branches from interfering with utility lines.

5.30.110 Property Owner Requests

- A.** A majority of the abutting property owners in a given block, street, or area of the City where tree planting is required may petition for the uniform planting of a tree variety of their own choice. Such petition shall be approved by the Parks and Recreation Director, provided the tree selection is made from the Official Street Tree List and the selection does not conflict with the standards above.
- B.** A petition bearing the signatures of not less than all of the property owners of any one block may be filed with the Parks and Recreation Director, requesting a change in the variety of trees in the planting strip adjacent to their properties. Such petition shall be approved by the Parks and Recreation Director providing the selection does not conflict with the standards above. The work may be done upon City force account or a City contract upon public bids, provided that the estimated cost thereof has been previously paid by the property owners. The work may also be done upon a private contract made by the property owners, the terms of which have been previously approved by the Parks and Recreation Director. All work is to be under the supervision of the Parks and Recreation Director.

5.30.120 Protection of Street Trees. Prohibitions.

- A.** When determined by the Parks and Recreation Director that private plantings or installations in planting strips are a hazard to the public or conflict with the approved tree planting plan, the Parks and Recreation Director shall have full authority to cause such hazard or detriment to be removed or eliminated.
- B.** No person shall, without a written permit from the Parks and Recreation Director, plant, remove, trim, prune, or cut any tree upon the streets, planting easements, or between the property line and the curb. Upon permission being granted to any person for the purpose of planting, trimming, pruning, cutting or removal same shall be done under the general supervision of the Parks and Recreation Director. All stumps of such trees including underground portions to a depth to be specified by the Parks and Recreation Director shall be removed during such operations.

- C.** No person shall interfere, or cause or permit any person to interfere with employees of the City who are engaged in the planting or maintenance, treating, or removing of any tree or plant in the streets or planting easements or in the removing of any stone, cement, or any substance in any such street, sidewalk, planting strip, alley, or other public place.
- D.** Willful injury to or disfigurement or destruction of any shade tree or ornamental plant growing within the City, whether situated upon private ground within the front setback or on any street, sidewalk, or public park or place, is a violation of this ordinance.
- E.** No person shall:
 - 1. Construct a concrete, asphalt, brick, or gravel sidewalk or otherwise fill up the ground area around any tree so as to shut off air, light, or water from the roots except under written authority from the Public Works Department,
 - 2. Pile building material, equipment or other substance around any tree so as to cause injury thereto,
 - 3. Apply any deleterious matter on or around any tree, or on the ground around it or on any planting strip, lawn or sidewalk,
 - 4. Post any sign on any tree, tree-stake, or guard, or fasten any guy wire, cable, or rope to any tree, tree-stake, or guard.
- F.** Tree-stakes or guards may be placed around trees by property owners provided the same are placed near a tree for the purpose of protecting or training such trees under the direction of the Parks and Recreation Director.
- G.** No person shall plant any tree on any street of the City, the planting of which is contrary to a street plan established pursuant to this Section or previous ordinances or code sections.
- H.** All damage caused to street trees by house moving shall be paid by the mover in an amount equal to the value of the tree according to tree evaluation standards of the International Shade Tree Conference. Any tree removed shall be replaced at the mover's expense.

5.30.130 Public Utilities.

Any person doing business as a public utility subject to the jurisdiction of the Public Utilities Commission of the State of California, and any duly constituted public agency authorized to provide and providing utility service, shall be given a permit from the Park Director valid for one year from the date of issuance, permitting such person to trim, brace, remove, or perform such other acts with respect to trees growing adjacent to the public streets of the City or which grow upon private property to the extent that they encroach upon such public streets as may be necessary to comply with the safety regulations of said commission and as may be necessary to maintain the safe operation of its business.

5.30.140 Sidewalk, Curb and Gutter Determinations.

In all cases where root damage from City planted trees occurs to City sidewalk, curbs or gutters, the City shall remove or root prune the trees and replace the damaged concrete.

It shall be the responsibility of a property owner to remove, at his own expense, trees directly in the way of new sidewalks, curbs, or driveway approaches. Any tree so removed shall be replaced, at the discretion of the Park Director, with an acceptable tree from the Master Tree List at the property owner's expense.

The installation of both integral and detached sidewalks within the same block will be allowed when upon determination by the Park Director and Public Works Director that the change within the block is necessary to preserve a desirable tree that is at least four inches in diameter, a distance of two feet above ground level, provided a minimum sidewalk width of four feet can be constructed.

5.30.150 Appeals

Any person aggrieved by any act or determination of the Park Director in the exercise of the authority herein granted shall have the right to appeal to the Council. An appeal shall be in writing, stating the decision appealed and reasons for the appeal.

5.30.160 Non-liability of City

Nothing in this article shall be deemed to impose any liability upon the City, or upon any of its officers or employees, nor to relieve the owner and occupant of any private property from the duty to keep trees and shrubs upon private property, or under his control, or upon sidewalks and parking strips in front of such private property in safe condition.

5.40 Utility Undergrounding

Sections:

- 5.40.010 - Applicability
- 5.40.020 - Exceptions
- 5.40.030 - Timing
- 5.40.040 - City Council Authority

5.40.010 Applicability

- A.** The requirements of this Section shall apply whenever a building permit is required for the construction of a new building or remodeling of or additions to an existing building, unless exempted by Subsection B.
 - 1. All existing and proposed utilities, including but not limited to, electric lines, communications lines, cable television lines, gas lines, and appurtenances thereto, shall be placed underground except those facilities exempted by Public Utilities Commission regulations and Section 5.40.020. All utility facilities, including service laterals, shall be installed in the ground and pressure tested prior to paving of streets.
 - 2. Certain utility appurtenances including, but not limited to, transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts used in connection with underground facilities may be placed on the surface of the ground.
 - 3. A site utility plan shall be required as part of a building permit application for a development that is required to underground utilities. All necessary arrangements for the installation of utilities shall be made with the operator of each proposed utility system.
- B.** This Section shall apply in all areas and zones of the City where a building permit is required for new construction, remodeling, or additions as provided below:
 - 1. New construction where a building permit is required.
 - 2. New construction, remodeling or additions to commercial, industrial or multi-family residential buildings, structures, or additions where a building permit is required.

5.40.020 Exceptions

- A.** This Section shall not apply to new construction, remodeling or additions to single-family dwelling as provided below:
 - 1. One new single-family dwelling constructed on one independent lot where the lot was not created as part of a subdivision or parcel map that required the

installation of underground utilities and where no utility pole exists on the property.

2. Two new single-family dwelling constructed on one independent lot where the lot was not created as part of a subdivision or parcel map requiring undergrounding of utilities and where no utility pole exists on the property. The main utility lines are not required to be installed underground; however, all interior utility lines must be installed underground.
3. Second Residential Units as provided by Section 4.10.170 where the lot was not created as part of a subdivision or parcel map requiring undergrounding of utilities. The main lines are not required to be installed underground; however, all interior utility lines must be installed underground.

5.40.030 Timing

In cases where this Section is applicable, the owner or person applying for such permit shall install utilities underground prior to the issuance of a certificate of final inspection on a building permit or other certificate of compliance with applicable permit conditions.

5.40.040 Council Authority

- A. The following regulations shall be applicable to cases coming within the provisions of this Section:
 1. The Council may waive all or part of the requirements of this Section upon application for such waiver in cases where in the sole discretion of the Council the strict application of this Section would create substantial hardship, would be impractical, or would not be in the best interests of the City or the public.
 2. The Council may extend the time for compliance with the provisions of this Section and may require such cash or other bond as it deems suitable to guarantee compliance with this Section within such time limit as it may specify.
 3. Filing fee (Appeal Fee as established by the City Master Fee Schedule) shall be required for the application to the Council under this Section.
 4. No improvements referred to in this Section shall be constructed until undergrounding of utilities have been prepared by the applicant, reviewed and approved by the utility companies, and have been approved by the City.
 5. Each request for waiver of the requirements of this Section shall be acted upon independently by the Council based upon the particular facts involved.