

**Council Meeting: February 23, 2010****SUBJECT: Revisions to Sunnyvale Municipal Code Section 16.62 - Areas of Special Flood Hazard****REPORT IN BRIEF**

The Federal Emergency Management Agency (FEMA) administers the flood insurance program which determines floodplains and flood zones. As part of the flood insurance program, communities are required to adopt and maintain flood plain information, studies and maps for their jurisdiction. FEMA recently reviewed the flood plain management program for the City of Sunnyvale and recommended minor modifications to the Sunnyvale Municipal Code section 16.62. Staff recommends approval of the draft ordinance that is attached.

BACKGROUND

FEMA's flood insurance program requires that local jurisdictions adopt Flood Insurance Studies and the accompanying Flood Insurance Rate Maps (FIRM). The Flood Insurance Study and FIRM for Sunnyvale were most recently revised in 2009.

FEMA conducts Community Assistance Visits with jurisdictions to review the floodplain management enforcement practices of participating communities. One such visit with the City of Sunnyvale was held in September 2009. During the visit FEMA staff reviewed the City's policies for implementing and enforcing the floodplain management regulations. After the visit, FEMA sent a letter to the Mayor, dated December 1, 2009, reporting the results of the visit. The letter stated that the City is doing a good job with managing the floodplain regulations; however, SMC section 16.62 requires some minor revisions.

The review letter also requested some additional information on specific projects located within the flood plain. Staff has already provided that information to auditor.

DISCUSSION

The proposed revisions to the Prevention of Flood Damage Municipal Code section 16.62 include adding/updating definitions and updating the language regarding requirements for subdivisions greater than 50 lots or 5 acres to clarify the information required on plans submitted for building permits (i.e. flood zone and base flood elevation). These changes reflect FEMA regulation changes that have been made since Sunnyvale's ordinance was last updated in

2001. While it is beneficial to have our ordinance conforming with the FEMA regulations, it does not change the administrative practices in that property owners are required to comply with local ordinances as well as FEMA regulations regarding floodplain construction.

FISCAL IMPACT

No fiscal impact is expected with the proposed revisions.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

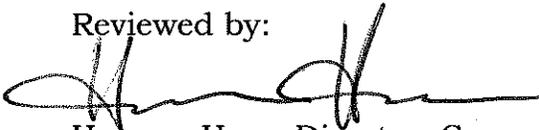
ALTERNATIVES

1. Approve the ordinance changes in Attachment A.
2. Approve ordinance changes in Attachment A with modifications.
3. Do not approve any modifications to the Areas of Special Flood Hazard.

RECOMMENDATION

Staff recommends Alternative 1.

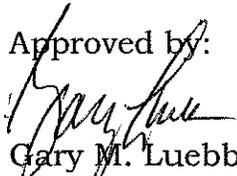
Reviewed by:



Hanson Hom, Director, Community Development

Prepared by: Ali Fatapour, Chief Building Official

Approved by:



Gary M. Luebbers

City Manager

Attachments

- A. Draft Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTER 16.62 (PREVENTION OF FLOOD DAMAGE) OF TITLE 16 (BUILDINGS AND CONSTRUCTION) OF THE SUNNYVALE MUNICIPAL CODE RELATING TO FLOODPLAINS

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 16.62.001 AMENDED. Section 16.62.001 of Chapter 16.62 (Prevention of Flood Damage) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code is amended to read as follows:

16.62.001. Statutory Authorization and Statement of purpose.

(1) 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 general health, safety and general welfare of its citizenry. Therefore, the City Council of the City of Sunnyvale does hereby adopt the following floodplain management regulations.

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

(a) – (h) [Text unchanged.]

SECTION 2. SECTION 16.62.010 AMENDED. Section 16.62.010 of Chapter 16.62 (Prevention of Flood Damage) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code is amended to read as follows:

16.62.010. General provisions—Definitions.

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

(1) – (9) [Text unchanged.]

(10) “Development” means any manmade 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.

(11) “Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before ~~the effective date of the floodplain management regulations adopted by a community~~ February 11, 1988.

(12) – (36) [Text unchanged.]

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

(a) An unfinished or flood-resistant enclosure, 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, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter-, including, but not limited to:

(i) The flood openings standard in Section 16.62.030(c)(4)(A) or 16.62.030(c)(4)(B);

(ii) The anchoring standards in Section 16.62.030(a);

(iii) The construction materials and methods standards in Section 16.62.035(f);

(iv) The standards for utilities in Section 16.62.031.

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

(38) – (49) [Text unchanged.]

(50) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light-duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters fore recreational, camping, travel or seasonal use.

(51) "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 a designated height.

(51) – (55) [Renumbered (52) – (56) consecutively; text unchanged.]

(57) "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 market value of the structure before the damage occurred.

(56) – (60) [Renumbered (58) – (62) consecutively; text unchanged.]

SECTION 3. SECTION 16.62.022 AMENDED. Section 16.62.022 of Chapter 16.62 (Prevention of Flood Damage) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code is amended to read as follows:

16.62.022. Administration—Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

(a) – (c) [Text unchanged.]

(d) 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 CLMOR'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 requires are based on current data.

(e) Obtain and maintain for public inspection and make available as needed:

(1) – (7) [Text unchanged.]

(e) – (f) [Renumbered (f) – (g) consecutively; text unchanged.]

SECTION 4. SECTION 16.62.032 AMENDED. Section 16.62.032 of Chapter 16.62 (Prevention of Flood Damage) of Title 16 (Buildings and Construction) of the Sunnyvale Municipal Code is amended to read as follows:

16.62.032. Provisions for flood hazard reduction—Standards for subdivisions.

The following standards shall apply to subdivisions:

(a) All preliminary subdivision proposals shall identify the flood-hazard area and the elevation of the base flood. All new subdivision 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:

(1) Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).

(2) Identify the elevations of lowest floors of all proposed structures and pads on the final plans.

(3) If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:

(i) Lowest floor elevation.

(ii) Pad elevation.

(iii) Lowest adjacent grade.

(b) All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.

(c) All subdivision proposals shall be consistent with the need to minimize flood damage. 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.

(d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize

~~flood-damage. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.~~

~~(e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.~~

SECTION 5. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 6. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 7. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 8. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held _____, 2010, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2010, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

SEAL

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney