

CHAPTER 5

FLOOD DAMAGE PREVENTION

335-1. INTRODUCTION.

(a) Purposes. It is the purpose of the County of Humboldt to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with floods;
- (4) To 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 blight areas;
- (5) To insure that potential buyers are notified that property is in an area of special flood hazard; and
- (6) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(b) Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of construction;
- (3) Controlling the alternatives of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling, filling, grading, dredging, and other development which may increase flood damage; and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 1541, § 4, 7/13/82)

335-2. DEFINITIONS.

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

(a) "Adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot (1') at any point.

(b) "Appeal" means a request for a review of the Director's interpretation of any provision of this chapter or a request for a variance.

(c) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This is commonly called a 100-year flood.

(d) "Breakaway walls" means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are so designed as to breakaway, under abnormally high water or wave action, without damage to structural integrity of the building on which they are used or of any buildings to which the might be carried by flood waters.

(e) "Director" means the Director of the Planning and Building Department or his/her designee. (Ord. 1827, 4/19/88; Ord. 2102, § 1, 1/9/96)

(f) "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 located within the area of special flood hazard. (Ord. 2102, § 1, 1/9/96)

(g) "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 this chapter. (Ord. 2102, § 1, 1/9/96)

(h) "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 pouring of concrete pads). (Ord. 2102, § 1, 1/9/96)

(i) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters and/or

(2) The unusual and rapid accumulation of run off surface waters from any source.

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

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

(l) "Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the FIRM, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

(m) "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. (Ord. 2102, § 2,1/9/96)

(n) "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 (1'). The floodway is delineated in part on the Flood Boundary Floodway Map.

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

(p) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles provided at least one wall has an open area of at least 60 percent of its length, 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 non-elevation design requirements of this ordinance. (Ord. 1827, 4/19/88; Ord. 2102, § 2, 1/9/96)

(q) "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced. (Ord. 1827, 4/19/88)

(r) "Manufactured home" means a structure that is transportable in one or more sections, which is built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". (Ord. 1827, 4/19/88; Ord. 2102, § 3, 1/9/96)

(s) "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. (Ord. 2102, § 3, 1/9/96)

(t) "New construction" means structures for which the "start of construction" commenced on or after the effective date of this chapter, and includes any subsequent improvements to such structures. (Ord. 1827, 4/19/88; Ord. 2102, § 3, 1/9/96)

(u) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter. (Ord. 2102, § 3, 1/9/96)

(v) "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.

(w) "Remedy a violation" means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development. (Ord. 2102, § 3, 1/9/96)

(x) "Shallow flooding area" means an area designated AO or VO on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. (Ord. 1827, 4/19/88)

(y) "Special flood hazard area" means the land in the flood plain within the unincorporated areas of Humboldt County subject to a one percent (1%) or greater chance of flooding in any given year. This area is designated as A, AO, AH, AE, A1-30 on the FIRM. (Ord. 1827, 4/19/88)

(z) "Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings,

piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Ord. 2102, § 3, 1/9/96)

(aa) "Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home. (Ord. 2102, § 3, 1/6/96)

(bb) "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. (Ord. 2102, § 3, 1/6/96)

(cc) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the total cost of which equals 50 percent of the market value of the structure before the "start of construction" of the improvement. If multiple or phased improvements are involved, said total costs shall be cumulative for a five (5) consecutive year period prior to start of construction. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or

2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure". (Ord. 2102, § 3, 1/9/96)

(dd) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited.

(ee) "Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided. (Ord. 2102, § 3, 1/9/96)

(ff) "Watercourse" means a natural or artificial channel with a defined bed and banks, through which water flows either continuously or intermittently. (Ord. 1541, § 4, 7/13/82)

335-3. GENERAL PROVISIONS.

(a) Lands to Which this Chapter Applies. This chapter applies to all areas of special flood hazards within the jurisdiction of Humboldt County.

(b) Designating and Identifying the Areas of Special Flood Hazard. The areas of special flood hazard are designated as the areas of special flood hazard which have been identified and adopted by the Federal Insurance Administration, Federal Emergency Management Agency (FEMA), in the report entitled "The Flood Insurance Study for the County of Humboldt" (hereinafter referred to as "Study") dated January 19, 1982 as amended August 5, 1986 or by

any subsequent amendment thereof as adopted by resolution of the Board of Supervisors; the FEMA Flood Boundary and Floodway Map Index, Humboldt County, California (Unincorporated Areas), effective July 19, 1982 as amended August 5, 1986 and by any subsequent amendment thereof as adopted by resolution of the Board of Supervisors; the FEMA Flood Insurance Rate Map Index, Humboldt County, California (Unincorporated Areas), effective July 19, 1982 as amended August 5, 1986 and by any subsequent amendment thereof as adopted by resolution of the Board of Supervisors; and the FEMA Flood Insurance Rate Map, Humboldt County, California (Unincorporated Areas), effective July 19, 1982 as amended August 5, 1986 or by any subsequent amendment thereof as adopted by resolution of the Board of Supervisors. Copies of the study and maps are on file in the Office of the Clerk of the Board of Supervisors, 825 Fifth Street, County Courthouse, Eureka, California, and at the Humboldt County Planning Department, 3015 "H" Street, Eureka, California. The study, together with the maps are adopted by this reference and are incorporated in this chapter as if fully set out herein.

(c) Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Board of Supervisors from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 2102, § 5,1/9/96)

(d) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

(e) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or that uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the County of Humboldt, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 1541, § 4, 7/13/82; Ord. 1746, § 1, 7/15/86)

335-4. ADMINISTRATION.

(a) Flood Plain Development Permit. A flood plain development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 335-3. Application for a development permit shall be made on forms furnished by the Director and may include, but not be limited to: duplicate plans in scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures in areas designated AO on the FIRM map, elevation of/existing grade and proposed elevation of lowest floor of all structures;

(2) Proposed elevation in relation to mean sea level to which any proposed structure will be floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 335-5; and

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

(b) Designation of the Administrator. The Director of the Planning and Building department is appointed to administer and implement this chapter by granting or denying flood plain development permit applications in accordance with its provisions.

(c) Duties of the Director. Duties and responsibilities of the Planning Director shall include, but not be limited to the following:

(1) Permit Review. The Director shall:

a. Review all flood plain development permits to determine that the requirements of this chapter have been satisfied.

b. Review all permits to determine that the site is reasonably safe from flooding.

c. Review all flood plain development permits to determine that 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.

d. Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972.

e. Review subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to assure that adequate drainage is provided to reduce flood hazards.

(2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 335-3(b), Basis for Establishing the Areas of Special Flood Hazard, the Director shall obtain, review, and reasonably use any base flood elevation data available from a Federal, State or other source, in order to administer Sections 335-5 and 322-4.

(3) Information to be obtained and maintained. The Director shall obtain and maintain for public inspection and make available as needed for flood insurance policies:

a. The certified elevation required by Section 335-5(a) (3)a (residential);

b. The certification required by Section 335-5(a) (3)b (shallow flooding);

c. The floodproofing certification required by Section 335-5(a) (3)d (nonresidential);

d. The certified elevation required in Section 322-4(b) (subdivision);

e. The anchoring certification required in Section 335-5(e) (manufactured homes);

f. The certification required by Section 335-5(a) (3)e (equalization of hydrostatic pressures); and

g. The certification required by Section 335-6(a) (floodway encroachment). (Ord. 2102, § 7, 1/9/96)

(4) Alteration of Watercourses. The Director shall:

a. Notify adjacent communities and the State Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration; and

b. Require that the flood-carrying capacity of the altered or relocated portion of said watercourse be maintained.

(5) Interpretation of FIRM Boundaries. The Director shall make interpretations where needed, as to the location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

(6) Remedial Action. Take action to remedy violations of this ordinance as specified in section 335-3(c). (Ord. 2102, § 7, 1/9/96)

(d) Fees. The Board of Supervisors shall, by resolution or ordinance, establish fees for these permits and appeals or variances. Such fees shall not exceed the actual cost of administering this chapter. (Ord. 1541, § 4, 7/13/82)

335-5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

(a) Construction Standards in Areas of Special Flood Hazard. In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

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

b. All manufactured homes shall meet one of the anchoring standards of Section 335-5(e).

(2) Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall use methods and practices that minimize flood damage.

c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
Exception: Electrical Equipment serving non-structural facilities need not be elevated above the Base Flood Elevation provided; the height to the top of the meter socket enclosure shall be 72 inches above grade.

d. All elements that function as part of the structure, such as furnace, hot water heater, air conditioner, etc., should be elevated to or above the base flood elevation or depth number specified on the FIRM.

e. All new construction and substantial improvement within Zones AH or AO, shall be constructed so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures. (Ord. 2102, § 9, 1/9/96)

(3) Elevation and Floodproofing.

a. New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to 1 foot above the base flood elevation. Non-residential structures may meet the standards in Section 335-5(a)(3)d. Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor or verified by the local building inspector to meet elevation requirements.

Notification of compliance shall be recorded as set forth in Section 335-4(c)(3)a.

b. New construction and substantial improvement of any structure in an area of shallow flooding or a zone designated AO on the FIRM map shall have the lowest floor, including basement, elevated to or above the depth number on the FIRM. If there is no depth number of the FIRM, the lowest floor, including basement, shall be elevated at least two feet (2') above the highest adjacent grade. Nonresidential structures may meet standards in Section 335-5(a)(3)d. Upon completion of the structure, compliance with the elevation requirement shall be certified by a registered professional engineer or surveyor or verified by the Director. Notification of compliance shall be recorded as provided by Section 335-4(c)(3)b.

c. manufactured homes shall meet the above standards and must meet the standards in Section 335-5(e).

d. Nonresidential construction shall either be elevated in conformance with Section 335-5(a)(3)a or b, or, together with attendant utility and sanitary facilities:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

2. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Director as provided by Section 335-5(a)(3)b.

e. Fully enclosed areas below the lowest floor shall be designed to automatically equalize the hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must be certified by a registered professional engineer or architect or have at least two openings with a total net area of at least one square inch per square foot of flooded area. The openings shall be no more than one foot above grade.

(b) Standards for Storage of Materials and Equipment. After the effective date of this chapter, application for new storage in areas designated on FIRM or Flood Boundary Maps shall meet the following criteria:

- (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life are generally prohibited.

- (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(c) Standards for Utilities.

(1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

(2) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(d) Standards for Subdivisions. See section 322-4 of the Humboldt County Code for subdivision requirements. (Ord. 2102, § 11, 1/9/96)

(e) Standards for Manufactured homes and Manufactured home Parks and Subdivisions.

(1) All manufactured homes that are placed or substantially improved, within Zones A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map, on sites located

- a. outside of a manufactured home park or subdivision,
- b. in a new manufactured home park or subdivision,
- c. in an expansion to an existing manufactured home park or subdivision, or
- d. in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a designed permanent foundation system so that the lowest floor of the manufactured home is elevated to 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map that are not subject to the provisions of section 335-5(e)(1) will be elevated so that either the

- a. lowest floor of the manufactured home is 1 foot above the base flood elevation, or
- b. manufactured home chassis is supported on a designed foundation system by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(3) The developer responsible for the plan, the installer or State agency responsible for regulating manufactured home placement shall certify that the manufactured home complies with this section. The certificate shall be filed with the Director as required by Section 335-4(c) (3)e. (Ord. 1541, § 4, 7/13/82; Ord. 1746, § 2, 7/15/86)

(f) Standards for Recreational Vehicles.

(1) All recreational vehicles placed on sites within Zones A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map will:

- a) Be on the site for fewer than 180 days annually; and
- b) Limit placement of unit to the period of May 1 to October 29; and
- c) 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; and
- d) Standards for permanent equipment and utilities shall be as required in Section 335-5 of the Humboldt County Code.

335-6. FLOODWAYS.

Located within areas of special flood hazard identified in Section 335-3(b) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a) There shall be no encroachments, including fill, new construction, substantial improvements, or other development unless a registered professional engineer or architect provides a certificate demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If no floodway is identified, encroachment is prohibited as above within fifteen (15) feet from the bank(s) of the watercourse. (Ord. 1541, § 4, 7/13/82)

335-7. APPEALS AND VARIANCES.

(a) Procedure.

(1) Appeals. Any person aggrieved by a decision of the Director may appeal to the Board of Supervisors by filing a notice of appeal, setting forth in detail the reasons therefor, together with the required fee, with the Director within fifteen (15) days of said decision. The appeal hearing shall be scheduled at the earliest possible date.

(2) Variances. An application for a project which requires a variance shall include, in addition to the information and fees required by Section 335-4, the information which the Board of Supervisors will need in order to grant the variance. The hearing on a request for a variance shall be scheduled at the earliest possible date. The flood plain development variance must be obtained before the project is considered for any other necessary approvals.

(b) Appeal Board

(1) The Board of Supervisors shall hear and decide appeals and requests for variance from the requirements of this chapter.

(2) The Board of Supervisors shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Director. The decision of the Board of Supervisors is final and binding on the County.

(3) In passing on appeals and requests for variances, the Board of Supervisors may consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

a. The danger that materials may be swept onto other land to the injury of others;

b. In danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity that the facility be located in a river channel or on a waterfront;

f. The availability of alternative locations, for the proposed use which are not subject to flooding;

g. The compatibility of the proposed use with existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if any, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) The Director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(c) Conditions for Variance.

(1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing Section 335-7(b) (3) have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acres, the technical justification required for issuing the variance increases.

(2) Upon consideration of the factors of Section 335-7(b) (3) and the purposes of this chapter, the Building Appeals Board may attach such conditions to the granting of a variance as it deems necessary to further the purposes of this chapter.

(3) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places of the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(5) Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances shall be issued only upon:

a. A showing of good and sufficient cause. Good and sufficient cause includes renovation, rehabilitation, reconstruction or necessity. Good and sufficient causes does not include economic considerations, aesthetics or past variances in similar situations; and

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

c. A determination that the granting of a variance will not increase flood heights, add to the threats to public safety, add extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(7) Any applicant who receives a variance shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation and that no local, State or Federal agency is liable for flood damages beyond the limit of the flood insurance coverage. This notice shall be recorded in the chain of title of the real property affected by the variance. (Ord. 1541, § 4, 7/13/82; Ord. 1574, § 1, 1/11/83)