

Chapter 15.36

FLOOD DAMAGE PREVENTION*

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* Prior ordinance history: Ord. 464.

ARTICLE I. STATUTORY AUTHORIZATION,
FINDINGS OF FACT, PURPOSE AND METHODS

15.36.010 Statutory authorization. The legislature of the state of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the town council does adopt the following floodplain management regulations. (Ord. 552-1 (part), 2000).

15.36.020 Findings of fact. (a) The flood hazard areas of the town are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) These flood losses may result from 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 contribute to the flood loss. (Ord. 552-1 (part), 2000).

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

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and *utilities* such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- (f) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- (g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 552-1 (part), 2000).

15.36.040 Methods of reducing flood losses. In order to accomplish its purposes, this chapter includes methods and provisions to:

- (a) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion "hazards, or which result in damaging increases in erosion or flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (d) Control filling, grading, dredging, and other development which may increase flood damage; and
- (e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 552-1 (part), 2000).

ARTICLE II. DEFINITIONS

15.36.050 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.

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

"Appeal" means a request for a review of the flood plain administrator's interpretation of any provision of this chapter. .

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

Area of Special Flood Hazard. See "Special flood hazard area."

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

"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 floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty 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."

"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.

"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.

"Flood," "flooding," or "floodwater" 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 Hazard Boundary Map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

"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."

"Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

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

"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.

"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."

"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 local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"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.

"Lowest floor" means the lowest floor of the lowest enclosed improved living area, including basement. See "Basement."

(1) An unfinished enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage is not considered a building's lowest floor provided it conforms to the design requirements of Section 15.36.170(c) (3).

"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.

"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.

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

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

"One-Hundred-Year flood or 100-Year Flood." See "Base flood."

"Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

"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 chapter or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sheet Flow Area. See "Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as zone A, AO, AI-A30, AE, A99, AH, VI-V30, VE or V.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty 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.

"Structure" means a walled and roofed building that is principally aboveground; this includes a gas or liquid storage tank "or a manufactured home.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of that structure. For the purpose of this definition, "substantial improvement" is considered to occur with the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. 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."

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

"Violation" means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a definite open channel with bed and banks within which water flows either perennially or intermittently including overflow channels contiguous to the main channel. A watercourse shall include both natural and manmade channels.(Ord. 552-1 (part) , 2000).

ARTICLE III. GENERAL PROVISIONS

15.36.060 Lands to which this chapter applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the town. (Ord. 552-1 (part), 2000).

15.36.070 Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated February 4, 1981, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the Ross town council by the floodplain administrator. (Ord. 552-1 (part), 2000).

15.36.080 Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this chapter and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing in this chapter shall prevent the Ross town council from taking such lawful action as is necessary to prevent or remedy any violation. (Ord. 552-1 (part), 2000).

15.36.090 Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 552-1 (part), 2000).

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

- (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (Ord. 552-1 (part), 2000).

15.36.110 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 manmade or natural causes. This chapter 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 chapter shall not create liability on the part of the Ross town council, any officer or employee thereof, the state of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 552-1 (part), 2000).

15.36.120 Severability. This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 552-1 (part),2000).

ARTICLE IV. ADMINISTRATION

15.36.130 Establishment of development permit. A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 15.36.070. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (a) Proposed elevation in relation to National Geodetic Vertical Datum (NGVD) of the lowest floor (including basement) of all structures; in zone AO elevation of highest adjacent grade and proposed elevation of lowest floor of all structures;
- (b) Foundation design detail, including but not limited to:
 - (1) For a crawl-space foundation, location and total net area of foundation openings as required in Section 15.36.170(c)(3), and
 - (2) For foundations placed on fill, the location and height of fill, and compaction requirements;
- (c) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
- (d) All appropriate certifications listed in Section 15.36.150(d); and
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 552-1 (part), 2000).

15.36.140 Designation of the floodplain administrator. The director of public works is appointed to administer, implement, and enforce this chapter by granting or denying development permits in accord with its provisions. (Ord. 552-1 (part), 2000).

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

(a) Permit Review. Review all development permits to determine that:

- (1) Permit requirements of this chapter have been satisfied;
- (2) All other required state and federal permits have been obtained;
- (3) The site is reasonably safe from flooding; and
- (4) 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. For purposes of this chapter, "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 at any point;

(5) Determine whether the repair, reconstruction or improvement proposal under the development permit is a "substantial improvement" to the structure based on generally prevailing market values in Ross at the time and on the estimated cost of the improvements. The flood plain administrator may require from the applicant reasonable supporting evidence of both such values and costs. If in the administrator's sole professional judgment the improvement proposed is not clearly less than a "substantial improvement" he may require that the applicant provide an appraisal of market value and/or an estimate of the improvement costs. The appraisal shall conform to the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Foundation, most recent edition, and to the standards of Title XI of the Real Estate Appraisal Reform Amendments of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, or to the Supplemental Standards of Appraisal Practice and Code of Professional Ethics of the Appraisal Institute. The estimate of construction cost shall be certified by a licensed contractor or by a registered architect.

(b) Review, Use and Development of Other Base Flood Data.

(1) When base flood elevation data has not been provided in accordance with Section 15.36.070, 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 chapter. Any such information shall be submitted to the Ross town council for adoption.

(c) Notification of Other Agencies. In 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 Insurance Administration;

and

(3) Assure that the flood carrying capacity within the altered or relocated portion of such watercourse is maintained.

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

(1) Certification required by Sections 15.36.170(c) (1) and 15.36.180 (lowest floor elevations and standards for utilities);

(2) Certification required by Section 15.36.170(c)(2) (elevation or floodproofing of nonresidential structures);

(3) Certification required by Sections 15.36.190(b) (wet floodproofing standard);

(4) Certification of elevation required by Section 15.36.190 (b) (subdivision standards);

(5) Certification required by Section 15.36.210(a) (floodway encroachments);

(e) Map Determinations. 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 Article VI of this chapter.

(f) Remedial Action. Take action to remedy violations of this chapter as specified in Section 15.36.080. (Ord. 552-1 (part), 2000).

15.36.160 Appeals. The town council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter. (Ord. 552-1 (part), 2000).

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

15.36.170 Standards of construction. In all areas of special flood hazards the following standards are required:

(a) Anchoring.

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

(2) All manufactured homes shall meet the anchoring standards of Section 15.36.200.

(b) Construction Materials and Methods. All new construction and substantial improvement shall be constructed:

(1) With flood-resistant materials, and utility equipment resistant to flood damage;

(2) Using methods and practices that minimize flood damage;

(3) 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 if

(4) Within" zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(c) Elevation and Floodproofing. (See Section 15.36.050, Definitions, for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement.")

(1) Residential construction, new or substantial improvement, shall have the lowest floor:

(A) 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;

(B) In an A zone, elevated to or above the base flood elevation; the base flood elevation shall be determined by one of the methods in Section 15.36.150(b);

(C) In all other zones, elevated to or above the base flood elevation.

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

(2) Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 15.36.170(c)(1) or together with attendant utility and sanitary facilities:

(A) Be floodproofed below the elevation recommended under Section 15.36.170(c)(1) so that the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(C) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator.

(3) All new construction and substantial improvement with fully enclosed areas below the lowest floor that are used 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 exceed the following minimum criteria:

(A) Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or

(B) Be certified by a registered professional engineer or architect.

(4) Manufactured homes shall also meet the standards in Section 15.36.200. (Ord. 552-1 (part), 2000).

15.36.180 Standards for utilities. (a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

(1) Infiltration of floodwaters into the systems; and

(2) Discharge from the systems into floodwaters.

(b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding. (Ord. 552-1 (part), 2000).

15.36.190 Standards for subdivisions. (a) All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.

(b) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.

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

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

(e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards. (Ord. 552-1 (part), 2000).

15.36.200 Standards for manufactured homes. All manufactured homes that are placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. (Ord. 552-1 (part), 2000).

15.36.210 Floodways. Located within areas of special flood hazard established in Section 15.36.070 are areas designated as floodways. Since the floodway may be an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a) Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge.

(b) If subsection (a) of this section is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of this article. (Ord. 552-1 (part), 2000).

ARTICLE VI. VARIANCE PROCEDURE

15.36.220 Nature of variances. The variance criteria set forth in this article are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners, or with physical characteristics or improvements which minimize or eliminate the susceptibility to flooding. The characteristic must pertain to the land itself, or the structure, not to its inhabitants, or the property owners. (Ord. 552-1 (part), 2000).

15.36.230 Appeal board. (a) In passing upon requests for variances, the Ross town council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

- (1) Danger that materials may be swept onto other lands to the injury of others;
- (2) Danger of life and property due to flooding or erosion damage;
- (3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- (4) Importance of the services provided by the proposed facility to the community;
- (5) Necessity to the facility of a waterfront location, where applicable;
- (6) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (7) Compatibility of the proposed use with existing and anticipated development;
- (8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) Safety of access to the property in time of flood for ordinary and emergency vehicles;
- (10) Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and
- (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(b) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the town council in the office of the Marin County recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(c) The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration. (Ord. 552-1 (part), 2000).

15.36.240 Conditions for variances. (a) Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 15.36.050) 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.

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

(c) Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this chapter.

(d) Variances shall only be issued upon a:

(1) Showing of good and sufficient cause;

(2) Determination that failure to grant the variance would result in exceptional hardship;

(3) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

(e) 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 (b) through (d) of this section 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.

(f) Upon consideration of the factors of Section 15.36.230(a) and the purposes of this chapter, the Ross town council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 552-1 (part), 2000).