

ATTACHMENT 14:

City of San José. 2019. *Excerpts from the City of San José Municipal Code.*

Part 5 - REQUIREMENTS FOR SPECIAL FLOOD HAZARD AREA

17.08.600 - Special flood hazard area.

The special flood hazard area shall consist of any land within the city identified on an official map of the city or the county of Santa Clara (prior to annexation) as a special flood hazard area, for which water elevation data for the one hundred-year flood is sufficient to identify the floodway or coastal high hazard area.

(Ord. 28512.)

17.08.610 - Major repairs.

The floodplain administrator shall review building permit applications for major repairs within the special flood hazard area. No flood clearance for a building permit shall be issued unless the floodplain administrator determines that the proposed repair (a) uses construction materials and utility equipment that are resistant to flood damage, and (b) uses construction methods and practices that will minimize flood damage. The applicant for a permit hereunder shall present drawings, plans, specifications and any other data or information which the floodplain administrator may require.

(Ord. 28512.)

17.08.620 - New construction or substantial improvements.

- A. The floodplain administrator shall review all building permit applications for new construction or substantial improvements of structures within the special flood hazard area. No flood clearance for a building permit shall be issued unless the floodplain administrator determines that the proposed construction, repair, reconstruction or improvement, including manufactured homes, if any are permitted, pursuant to Titles 19 and 20 of this Code meets all of the following requirements:
1. Is protected against flood damage;
 2. Is adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effect of buoyancy;
 3. Uses construction materials and utility equipment that are resistant to flood damage;
 4. Uses construction methods and practices that will minimize flood damage;
 5. Uses 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;
 6. If within Zones AH or AO as shown on the FIRM, has adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures;
 7. Residential construction. Excepting residential construction in Zone A99, all new construction of any residential structure or substantial improvements of such a residential structure shall have the lowest floor, including basement, comply with all the requirements of Subsections A.1. through A.6. of this section and the requirements of the applicable flood hazard zone in Subsections A.7.a. and A.7.b. below. For residential structures, attached garages may be built at grade provided that such garages also meet the design requirements of Subsection A.10. of this section. All subgrade enclosed areas (except crawlspaces) are considered to be basements and are prohibited in residential structures. This prohibition includes below-grade parking garages and below-grade storage areas.
 - a. Zone AO. Elevated to or above the depth number specified on the FIRM. If there is no depth number on the FIRM, the lowest floor, including basement, shall be elevated two feet above the highest adjacent grade. Upon completion of the structure, the floodplain administrator or a registered professional engineer or surveyor

- shall certify that the structure is elevated as set forth in this subsection and, if certified by a professional engineer or surveyor, shall provide such certification to the floodplain administrator as set forth in Section 17.08.560.
- b. Zones A, A1-A30, AE or AH. Elevated to or above the base flood elevation specified on the FIRM or the best available data as defined in Section 17.08.210 when base flood elevation has not been provided. Upon completion of the structure, the elevation on the required vertical datum showing the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator as set forth in Section 17.08.560.
8. Nonresidential and mixed-use construction. Excepting nonresidential and mixed-use construction in Zone A99, all new construction of any nonresidential or mixed-use structure or substantial improvements of such structures shall comply with all the requirements of Subsections A.1. through A.6. above and be in conformance with the elevation requirements of the applicable flood hazard zone or the alternative flood hazard requirement as specified below:
- a. Zone AO. Elevated to or above the depth number specified on the FIRM. If there is no depth number on the FIRM, the lowest floor, including basement, shall be elevated two feet above the highest adjacent grade. Access to residential uses of mixed use structures shall be dry floodproofed. Upon completion of the structure, the floodplain administrator or a registered professional engineer or surveyor shall certify that the structure is elevated as set forth in this subsection and, if certified by a professional engineer or surveyor, shall provide such certification to the floodplain administrator as set forth in Section 17.08.560.
 - b. Zones A, A1-A30, AE or AH. Elevated to or above the base flood elevation specified on the FIRM or the best available data as defined in Section 17.08.410 when base flood elevation has not been provided. Access to residential uses of mixed use structures shall be dry floodproofed. Upon completion of the structure, the elevation on the required vertical datum showing the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor and provided to the Floodplain administrator as set forth in Section 17.08.560.
 - c. Alternative flood hazard requirement. With attendant utility and sanitary facilities:
 - i. Be dry floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. 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 as set forth in Section 17.08.560;
9. Zone A99 construction. The Zone A99 flood hazard areas are designated by a Federal Emergency Management Agency (FEMA) letter of map revision. These areas have received additional flood protection due to the construction of improvements such as dikes, dams or levees. No base flood elevation has been designated for Zone A99. The requirements of Subsections A.1. through A.5. of this section and Section 17.08.640 do not apply to the Zone A99 flood hazard area. For new construction and substantial improvements in Zone A99, the permit applicant shall be provided a written notice of the flood risk in a form acceptable to the city attorney. All property owners shall acknowledge the receipt of the written notice and acknowledge in writing that they do not elect to voluntarily comply with the requirements of Subsections A.1. through A.5. of this section and Section 17.08.640.
10. Enclosed areas below the lowest floor. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or limited storage, and which are subject to flooding, shall be designed to provide wet floodproofing and shall automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must meet or exceed the following minimum criteria:
- a. Be certified by a registered professional engineer or architect; or
 - b. Have a minimum of two openings having a total net area of not less than one square inch for every one 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 flood water.

11. Crawlspace construction. All crawlspaces shall comply with all the requirements of Subsections A.2. through A.5. of this section and the design requirements of Subsection A.10. of this section. Below-grade crawlspaces for new construction and substantial improvements shall be designed and certified by a registered professional engineer to meet the following additional requirements:
 - a. The interior grade of the crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade;
 - b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point;
 - c. The velocity of flood waters at the parcel or site should not exceed five feet per second;
 - d. There must be an adequate drainage system that removes flood waters from the enclosed interior area of the crawlspace within a reasonable amount of time, not to exceed seventy-two hours after the end of a flood event. The drainage system may include natural drainage through porous, well-drained soils, or drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.
 - e. Below-grade crawlspace construction in accordance with the requirements listed above will not be considered basements. However, applicants who construct structures that have below- grade crawlspaces are hereby advised that such structures will have higher flood insurance premiums than structures that have crawlspaces with interior elevations at or above the lowest adjacent exterior grade.
12. Accessory structures. An exemption to the elevation or dry floodproofing standards may be granted for accessory structures used solely for parking (residential garages with gross floor area of six hundred fifty square feet or smaller) or limited storage (low-cost sheds with gross floor area of two hundred square feet or smaller). Such structures shall not be used for human habitation and must meet the requirements of Subsections A.2. through A.6., inclusive, the design requirements of Subsection A.10. of this section, and the encroachment provisions of Section 17.08.640D. Portions of the structure with uses other than parking and limited storage must meet the elevation requirements of the applicable special flood hazard zone in Subsection A.7. of this section.
13. Manufactured homes. Manufactured homes shall meet the above standards and also the standards in Sections 17.08.640 and 17.08.650.
14. Coastal high hazard areas. Within coastal high hazard areas, Zone V, V1-V30, and VE, as established under Section 17.08.510, the following standards shall apply:
 - a. All new residential and nonresidential 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 local building standards.
 - b. All new construction and other development shall be located on the landward side of the reach of mean high tide.
 - c. 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 Part 2 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
 - d. Fill shall not be used for structural support for buildings.

- e. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
- f. The Floodplain Administrator shall obtain and maintain the following records:
 - i. Certification by a registered engineer or architect that a proposed structure complies with Section 17.08.620A.14.a.; and
 - ii. 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 structures contain a basement.
- B. In making said determination, the floodplain administrator shall review and reasonably utilize any base flood elevation data available, principally the FIRM, which has been provided by the administrator. The applicant for a permit hereunder shall present drawings, plans, specifications, a certificate of elevation, and any other data or information which the floodplain administrator may require.

(Ord. 28512.)

17.08.630 - Standards for utilities.

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 systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 28512.)

17.08.640 - New developments.

- A. The Floodplain Administrator shall review subdivision applications and other proposed new development applications in the special flood hazard area to assure that:
 - 1. All such applications are consistent with the need to minimize flood damage;
 - 2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and
 - 3. Adequate drainage is provided so as to reduce exposure to flood hazards. Such subdivision applications and other proposed new development applications shall include base flood elevation data available from federal, state and local sources.
- B. The Floodplain Administrator shall require that all manufactured homes to be placed within such special flood hazard areas be anchored to resist flotation, collapse or lateral movement by providing over-the-top or frame ties to ground anchors. Specific requirements shall be determined by the floodplain administrator, and shall include an elevation certificate, but in no way are to be of lesser magnitude than those specified in the federal insurance administration's National Flood Insurance Program revised regulations (44 C.F.R. Part 60). Pursuant to state law, certification meeting the standards above is required of the local enforcement agency responsible for regulating the placement, installation and anchoring of individual manufactured home units.
- C. The Floodplain Administrator shall require that until a floodway is designated by the administrator, no new construction, subdivision, improvement or other development, including fill, shall be permitted within a special flood hazard area on the community FIRM unless it is demonstrated 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 community.
- D. The floodplain administrator shall prohibit encroachments, including fill, new construction, substantial improvement, and other development within designated floodways unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(Ord. 28512.)

17.08.650 - Mobilehome parks and mobilehome subdivisions.

The floodplain administrator shall review building permit applications for manufactured home parks and subdivisions. The following standards, in addition to those set forth in Title 25, Chapter 2 of the California Code of Regulations, are required for: (a) manufactured homes not placed in manufactured home parks or subdivisions; (b) new manufactured home parks or subdivisions; (c) expansions to existing manufactured home parks or subdivisions and; (d) repair, reconstruction, or improvements to existing manufactured home parks or subdivisions that equals or exceeds fifty percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced. No flood clearance for a building permit shall be issued unless the floodplain administrator determines all of the following:

- A. Adequate surface drainage and access for a refuse hauler shall be provided;
- B. All manufactured homes shall be placed on pads or lots elevated on compacted fill or on pilings so that the lowest floor of the manufactured home is at or above the base flood level. If elevated on pilings:
 1. The lots shall be large enough to permit steps;
 2. The pilings shall be placed in stable soil no more than ten feet apart; and
 3. Reinforcement shall be provided for pilings more than six feet above the ground level;
- C. No manufactured homes shall be placed within a regulatory floodway except in existing manufactured home parks and subdivisions pursuant to regulations promulgated by the Federal Emergency Management Agency (Title 44, Emergency Management and Assistance Section 60.3, subsection (d)(4).

(Ord. 28512.)

17.08.660 - Standards for subdivisions.

All subdivision applications shall identify the flood hazard area and the elevation of the base flood. All new subdivision applications (including applications for manufactured home parks and subdivisions) within Zone A which create more than fifty parcels or sites, or involve more than five acres of land, whichever is less, shall provide base flood elevation data to the floodplain administrator. All final subdivision plans shall identify the location and provide the elevation of proposed structure(s) and pad(s). If the parcel or site is filled above the base flood elevation, the lowest floor, pad elevation, and lowest adjacent grade shall be certified by a registered professional engineer or surveyor and provided as part of an application for a letter of map revision based on fill (LOMR-F) to the floodplain administrator. All subdivision applications shall be consistent with the need to minimize flood damage. All subdivision applications shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. All subdivision applications shall have adequate drainage provided to reduce exposure to flood damage as set forth in Section 17.08.640.

(Ord. 28512.)

17.08.665 - Standards for recreational vehicles.

- A. All recreational vehicles placed in Zones A1-30, AH, AE, V1-30 and VE will either:
 1. Be on the site for fewer than one hundred eighty consecutive days; or
 2. 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
 3. Meet the permit requirements of Section 17.08.570 and the elevations and anchoring requirements for manufactured homes in Section 17.08.640.
- B. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's flood insurance rate map will meet the requirements of Section 17.08.665A. and Section 17.08.620A.14.

(Ord. 28512.)

17.08.670 - Compliance with federal or state law.

All ministerial and discretionary permits issued by the city of San José for major repairs, new construction, substantial improvements, and new development shall be reviewed by the appropriate departmental official 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 (as amended) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(Ord. 28512.)

Chapter 20.95 - STORM WATER MANAGEMENT

Part 1 - GENERAL PROVISIONS

20.95.010 - Purpose.

The purpose of this chapter is to achieve all of the following:

- A. Promote adequate storm water management; and
- B. Promote proper siting of storm water runoff treatment to mitigate potential adverse impacts on adjacent land uses; and
- C. Encourage the use of alternative modes of storm water runoff treatment; and
- D. Ensure access to storm water treatment measures; and
- E. Enable the permitting of off-site storm water runoff treatment facilities without creating adverse conditions or impacts on the subject or neighboring properties.

(Ord. 26995.)

20.95.020 - Applicability.

The provisions of this chapter shall apply:

- A. Whenever the creation, on or above ground through installation, construction, or replacement, of five thousand square feet of impervious surface will occur through a proposed development of real property for uncovered parking (stand-alone or part of another use), restaurant, auto service facility or retail gasoline outlet use; or
- B. Whenever the creation, on or above ground through installation, construction, or replacement, of ten thousand square feet or more of impervious surface will occur through a proposed development of real property, for any use except for development of detached single-family home projects, which are not part of a larger plan of development; or
- C. Whenever the creation, on or above ground through installation, construction, or replacement, of two thousand five hundred or more, but less than ten thousand square feet, of impervious surface will occur for any use through a proposed development of real property (a small project); or
- D. Whenever the creation, on or above ground through installation, construction, or replacement of two thousand five hundred square feet or more of impervious surface will occur for the development of a detached, single-family home project which is not part of a larger plan of development.

(Ords. 26995, 28301, 28977, 29169.)

Part 2 - STORM WATER RUNOFF TREATMENT REQUIREMENTS

20.95.110 - Conformance.

Whenever the creation, on or above ground through installation, construction, or replacement of impervious surface will occur as part of a proposed development of real property, that development shall be designed in conformance with "City Council Policy 6-29 Post-Construction Urban Runoff Management," and in conformance with the provisions of this chapter and Chapter 20.100 of this title, all as the same may be amended from time to time.

(Ords. 26995, 28301, 28977.)

20.95.120 - Maintenance.

- A. All storm water runoff treatment measures installed on property shall be permanently maintained by the property owner in good repair and free of litter and debris, obstructions, and stored materials.
- B. All owners of property on which a storm water treatment measure has been installed pursuant to the requirements of this chapter shall retain, and make available for inspection and copying, all records of inspection and maintenance activities performed on the installed storm water treatment measure within the five years immediately preceding the demand for such records by any representative of city.
- C. It shall be unlawful for any person to alter, remove fail to maintain, or to cause, allow or permit alteration, removal or failure to maintain a storm water treatment measure that has been installed pursuant to the requirements of this chapter, except pursuant to an adjustment to the development permit for the project if the development permit required installation of the storm water treatment measure, or pursuant to an administrative permit issued for the removal or alteration of the storm water treatment measure, if the measure was not installed pursuant to a development permit. The criteria for granting an adjustment or administrative permit shall be that an alternate means of providing equivalent storm water treatment will be provided.

(Ords. 26995, 28977.)

Part 3 - OFF-SITE STORM WATER TREATMENT

20.95.210 - Permit required.

No person shall place, construct or operate, or permit the placement, construction, or operation, of any off-site storm water runoff treatment facility on a site without first obtaining a special use permit issued in accordance with the provisions set forth in Chapter 20.100 of this title.

(Ord. 26995.)

20.95.220 - Special use permit for off-site storm water runoff treatment.

- A. An applicant for a special use permit to allow the placement, construction or operation of off-site storm water runoff treatment facilities shall, in addition to all other special use permit requirements, declare under penalty of perjury that the off-site storm water runoff treatment facilities sought for placement, construction or operation under the special use permit will at all times be maintained in full conformance with each and every one of the criteria and standards set forth in this part.
- B. A special use permit to allow an off-site storm water runoff treatment facility shall not be issued unless the director first determines that all of the applicable criteria and standards set forth in this part are or can be met at the time of issuance of the permit.

(Ord. 26995.)

20.95.230 - Criteria and standards.

- A. Any off-site storm water runoff treatment facility that may be permitted with a special use permit shall meet the standards and criteria set forth below; provided, however, that the director, or planning commission on appeal, may modify such standards and criteria or impose stricter standards or criteria upon a finding that such modifications are reasonably necessary in the director's or commission's determination in order to implement the purposes of this title and, more specifically, the purposes of this part set forth in Section 20.95.010 above.
- B. The standards and criteria for off-site storm water runoff treatment facilities are as follows:
 1. The off-site storm water runoff treatment facilities shall be designed in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," and in conformance with the provisions of Chapter 20.100 of this title.
 2. Prior to the issuance of any public works clearance, a covenant of easement for ingress/egress and operation and maintenance purposes to be maintained in perpetuity shall be recorded by the applicant and the property owner on the subject property on which the off-site storm water runoff treatment facility is located, with all necessary subordinations to the satisfaction of the director of planning and the director of public works.
 3. The applicant shall be responsible for operating and maintaining the off-site storm water runoff treatment in accordance with the conditions of the special use permit.

(Ord. 26995.)