

1 **URGENCY ORDINANCE NO.**

2 An **urgency** ordinance of San Bernardino County, State of
3 California, to amend Chapter 82.14 of Division 2 and Chapter
4 86.04 of Division 6; to amend and renumber Subsections
5 810.01.080(gg)(42) through (56) of Chapter 810.01 of Division
6 10; and to add Subsection 810.01.080(gg)(42) to Chapter
7 810.01 of Division 10, all of Title 8 of the San Bernardino
8 County Code related to floodplain safety overlay regulations,
9 floodplain administrator regulations, and flood hazard
10 definitions.

11 The Board of Supervisors of the County of San Bernardino, State of California,
12 ordains as follows:

13 **SECTION 1. Findings.**

14 The Board of Supervisors of San Bernardino County finds that:

15 (a) The National Flood Insurance Program (NFIP) was established with the
16 passage of the National Flood Insurance Act of 1968. The NFIP is a federal program
17 enabling property owners in participating communities to purchase insurance as a
18 protection against flood losses in exchange for state and community floodplain
19 management regulations that reduce future flood damages.

20 (b) San Bernardino County (County) is a participant of the NFIP. Chapters
21 82.14 of Division 2 and 86.04 of Division 6, both of which are part of Title 8 of the San
22 Bernardino County Code represent the County's floodplain ordinance adopted to comply
23 with the NFIP.

24 (c) The County is required to update the floodplain ordinance periodically in
25 order to meet updated NFIP requirements. The modifications to the floodplain ordinance
26 as provided in the proposed **urgency** ordinance are intended to reduce the risk of flooding,
27 meet or exceed federal and state requirements, and will serve the public health, safety
28 and welfare of the County.

**(d) The Federal Emergency Management Agency (FEMA) requires that local
agency ordinances be approved, adopted, and in effect, with materials submitted to**

1 FEMA evidencing compliance with the NFIP requirements, prior to May 8, 2024.

2 (e) The purpose of this urgency ordinance is to ensure compliance with NFIP
3 requirements, prior to the deadline required by FEMA, in order to prevent suspension or
4 probation from the NFIP program, which may negatively impact or restrict the availability
5 of flood insurance to residents affected during flooding events, lead to a loss of access to
6 federal disaster assistance programs, including grants, to aid in flood recovery and
7 impacts of disasters, and permit continued participation in the NFIP which is designed to
8 be a critical resource for financial protection to residents during flood events, and is
9 therefore necessary for the immediate preservation of the public peace, health, and/or
10 safety and shall take effect immediately upon adoption pursuant to Government Code
11 Section 25123, subdivision (d).

12 ~~(d)(f)~~ Properly noticed public hearings have been held before the County
13 Planning Commission and the Board of Supervisors pursuant to the Planning and Zoning
14 Law of the State of California and the San Bernardino County Development Code.

15 ~~(e)(g)~~ The California Environmental Quality Act (CEQA) Guidelines, Title 14 of the
16 California Code of Regulations, Section 15308, categorically exempts actions taken by
17 regulatory agencies, as authorized by state or local ordinance, to assure the
18 maintenance, restoration, enhancement, or protection of the environment where the
19 regulatory process involves procedures for protection of the environment. The proposed
20 urgency ordinance is exempt from CEQA because it involves updating the County's
21 existing floodplain ordinance to address the revisions requested by the Federal
22 Emergency Management Agency to meet additional requirements as a condition of
23 continued eligibility to participate in the NFIP.

24
25 SECTION 2. Chapter 82.14 of the San Bernardino County Code is amended in its
26 entirety, to read:

27 **CHAPTER 82.14: FLOODPLAIN SAFETY (FP) OVERLAY**

28 Section:

- 1 82.14.010 Authority and Purpose.
- 2 82.14.020 Location Requirements.
- 3 82.14.030 Applicability.
- 4 82.14.040 Floodplain Safety Review Areas.
- 5 82.14.050 Development Standards for Floodplain Safety Review Areas.
- 6 82.14.060 ~~Exemptions and Modifications~~Variances.
- 7 82.14.070 Boundary Changes.

8 **82.14.010 Authority and Purpose.**

9 ~~The Floodplain Safety (FP) Overlay established by Sections 82.01.020 (Land Use~~
10 ~~Plan and Land Use Zoning Districts) and 82.01.030 (Overlays) is created to provide~~
11 ~~greater public safety, promote public health, and minimize public and private economic~~
12 ~~losses due to flood conditions by establishing regulations for development and~~
13 ~~construction with flood prone areas.~~

14 (a) The Legislature of the State of California has, in Government Code sections
15 65302, 65560, and 65800, conferred upon local governments the authority to adopt
16 regulations designed to promote the public health, safety, and general welfare of its
17 citizenry.

18 (b) The purposes and objectives of these regulations are to promote the public
19 health, safety, and general welfare and to minimize public and private losses due to flood
20 conditions in specific flood hazard areas through the establishment of comprehensive
21 regulations for management of flood hazard areas, designed to:

22 (1) Minimize unnecessary disruption of commerce, access, and public
23 service during times of flooding.

24 (2) Require the use of appropriate construction practices in order to
25 prevent or minimize future flood damage.

26 (3) Manage the alteration of natural floodplains, stream channels, and
27 shorelines to minimize the impact of development on the natural and beneficial functions
28 of the floodplain.

1 (4) Manage filling, grading, dredging, mining, paving, excavation, drilling
2 operations, storage of equipment or materials, and other development which may
3 increase flood damage or erosion potential.

4 (5) Prevent or regulate the construction of flood barriers which will divert
5 floodwater or increase flood hazards.

6 (6) Contribute to improved construction techniques in the floodplain.

7 (7) Minimize damage to public and private facilities and utilities.

8 (8) Help maintain a stable tax base by providing for the sound use and
9 development of flood hazard areas.

10 (9) Minimize the need for rescue and relief efforts associated with
11 flooding.

12 (10) Ensure that property owners, occupants, and potential owners are
13 aware of property located in flood hazard areas.

14 (11) Minimize the need for future expenditure of public funds for flood
15 control projects and response to and recovery from flood events.

16 (12) Meet the requirements of the National Flood Insurance Program for
17 community participation as set forth in Title 44 Code of Federal Regulations, Section
18 59.22.

19 **82.14.020 Location Requirements.**

20 (a) Establishment of Flood Hazard Areas. The FP Overlay Areas described in
21 §-section 82.14.040 (Floodplain Safety Review Areas) are applied to areas of special
22 flood hazard identified by the Federal Emergency Management Agency (FEMA) ~~or the~~
23 ~~Federal Insurance Administration~~ in a scientific and engineering report entitled “Flood
24 Insurance Study for San Bernardino County, California, and Incorporated Areas,” dated
25 May 8, 2024, and all subsequent amendments and revisions thereto, and the initially
26 ~~prepared in 1978, which has subsequent updates, with~~ accompanying Flood Insurance
27 Rate Maps (FIRMs), and all subsequent amendments and revisions to such maps; which
28 documents are hereby adopted by reference as a part of these regulations and serve as

1 the basis for establishing flood hazard areas. The most current copies of the Flood
2 Insurance Study (FIS) and the FIRMs are on file at the Department of Public Works.

3 (b) FIS establishes the minimum areas to which the FP Overlays may be
4 applied. Subsequent reports and maps may identify additional flood hazard areas, with
5 the possibility of adding, removing, or updating areas as directed by the San Bernardino
6 County Flood Control District or other governmental agencies, such as the Corps of
7 Engineers. Additional areas may be added after studies for the areas are prepared by the
8 San Bernardino County Flood Control District or other governmental agencies (e.g.,
9 Corps of Engineers).

10 **82.14.030 Applicability.**

11 No structure or land use shall hereafter be constructed, located, extended,
12 converted, or altered without full compliance with the provisions of this Chapter and other
13 applicable regulations. Violations of the provisions of this Chapter by failure to comply
14 with any of its requirements (including violation of conditions and safeguards required by
15 conditions of approval) shall be subject to the penalties established by this Development
16 County Code. Nothing in this Chapter shall prevent the County from taking lawful action
17 as is necessary to prevent or remedy any violation.

18 (a) *Abrogation and Greater Restrictions.* The provisions of this Chapter are not
19 intended to repeal, abrogate, or impair any existing easements, covenants, or deed
20 restrictions or any map changes made by FEMA. However, where this Chapter or other
21 section, easement, covenant, or deed restriction or map revision as may be made by
22 FEMA conflict or overlap, the more stringent regulations or standards shall govern.

23 (b) *Interpretation.* In the interpretation and application of this Chapter all
24 provisions shall be considered as minimum requirements, liberally construed in favor of
25 the governing body and, deemed neither to limit nor repeal any other powers granted
26 under State statutes.

27 (c) *Implementation.* The requirements of this ChapterSection shall be
28 integrated into the processing and review of all land use applications and development

1 permits where specific flood hazard review and flood protection requirements are made
2 by the County.

3 (d) Warning and Disclaimer of Liability. The degree of flood protection required
4 by this Chapter is considered reasonable for regulatory purposes and is based on
5 scientific and engineering considerations. Larger floods can and will occur on rare
6 occasions. Flood heights may be increased by man-made or natural causes. These
7 regulations do not imply that land outside the areas of special flood hazards or uses
8 permitted within such areas will be free from flooding or flood damages. These provisions
9 shall not create liability on the part of the County, any officer or employee thereof, the
10 State of California, or ~~FEMA~~the Federal Emergency Management Agency, for any flood
11 damages that result from reliance on these regulations or any administrative decision
12 lawfully made hereunder.

13 ~~(d)~~(e) Severability. If any section, sentence, clause, or phrase of this Chapter is,
14 for any reason, declared by the courts to be unconstitutional or invalid, such decision shall
15 not affect the validity of the ordinance as a whole, or any part thereof, other than the part
16 so declared.

17 **82.14.040 Floodplain Safety Review Areas.**

18 The FP Overlay shall be subdivided into flood hazard zone areas ~~as follows.~~
19 Proposed development shall comply with the following requirements.

20 (a) *100-year Floodplain.* The 100-year floodplain includes areas subject to a
21 base flood (also called “100-year flood”) as defined by the Federal Flood Insurance
22 Regulations. The following are the FEMA-designated flood hazard zones for this area: A,
23 AE, AH, A1-30, and AO. (Note: FEMA-designated regulatory floodway is included within
24 the AE zone.) The following standards shall apply to property within these zones:

25 (1) ~~Elevation of First Floor. New construction and substantial~~
26 ~~improvement of any structure shall be constructed so that the first floor (including~~
27 ~~basement) shall be one foot or more above the base flood elevation, when the FEMA~~
28 ~~map base flood elevations are shown, and will not result in any significant increase in~~

1 ~~flood levels during a base flood discharge. When the base flood elevations are not shown,~~
2 ~~new construction and substantial improvement of any residential structure shall be~~
3 ~~constructed so that the first floor (including basement) shall be two feet or more above~~
4 ~~the natural pre-development highest adjacent grade.~~

5 (2) ~~Review Procedures.~~ A project proposed in this area shall be subject
6 to a Floodplain Development Standards Review. These reviews shall ensure that the
7 proposed project complies with this Development County Code regarding flood protection
8 measures and shall require the submittal of an elevation certificate completed by a
9 licensed land surveyor, registered civil engineer, or architect who is authorized by State
10 or local law to certify elevation information.

11 (2) *Development Restriction.* In Zone AE areas where a base flood
12 elevation has been determined but no regulatory floodway has been designated by
13 FEMA, new construction, substantial improvement or other development (including fill)
14 shall not be permitted, ~~within any areas designated by FEMA as A, A1-30, AO, AH, or~~
15 ~~AE on the FIRMs,~~ unless it is demonstrated through hydrologic and hydraulic analyses
16 that the cumulative effect of the proposed development when combined with all other
17 existing and anticipated development will not increase the water surface elevation of the
18 base flood more than one foot at any point within the community.

19 (3) *FEMA-designated Floodways.* Floodways, as defined by FEMA, are
20 different from the Floodway Land Use Zoning District established in Chapter 82.01 (Land
21 Use Plan, Land Use Zoning Districts, and Overlays) and regulated by Chapter 82.03
22 (Agricultural and Resource Management Land Use Zoning Districts) of this ~~title~~Title. They
23 are defined as the channels of a river or other watercourse and the adjacent land areas
24 that must be reserved in order to discharge the base flood without cumulatively increasing
25 the water surface elevation. They are also referred to as “regulatory floodways” (see
26 subsection 810.01.080(gg)(~~243~~)). They are generally coterminous with the County’s
27 Floodway Land Use Zoning Districts. They are considered FEMA-designated flood
28 hazard zones in that they are included within the AE zone.

1 (b) *100 to 500-year Floodplain.* This area includes areas between limits of the
2 base flood (100-year flood) and a 500-year flood; and certain areas subject to 100-year
3 flooding with an average depth of less than one foot or where the contributing drainage
4 areas are less than one square mile; or areas protected by levees from the base flood.
5 The following are the FEMA-designated flood hazard zones for this area: A-99 and the
6 shaded Zone X. The following standards shall apply to property within these zones:

7 (1) *Elevation of First Floor.* New construction and substantial
8 improvement of any structure shall be so constructed that the first floor (including
9 basement) shall be one foot above the natural pre-development highest adjacent grade.

10 (2) *Review Procedures.* A project proposed in this area shall be subject
11 to a Floodplain Development Standards Review conducted by the Building and Safety
12 Division based upon the determination by the Land Development Division of the Land
13 Use Services Department. This review shall ensure that the proposed project complies
14 with this Development County Code regarding flood protection measures.

15 (c) *Undetermined Flood Hazards.* This area includes areas of undetermined,
16 but possible, ~~shallow~~ flooding as FEMA-designated Zone D areas, or as determined by
17 the County, the Flood Control District, or other governmental agency. The following
18 standards shall apply to property within this area:

19 (1) *Final Building Plan Content.* The final building plans that are
20 submitted for approval shall show the approved location and mitigating measures.

21 (2) *Development Standards.* Development standards for the
22 undetermined flood hazard area shall be determined ~~on a~~ case-by-case and shall be
23 dependent upon the specifications of the project. The California Department of Water
24 Resources Best Available Map may be used to determine standards in the undetermined
25 area. A Floodplain Development Standards Review may be required.

26 **82.14.050 Development Standards for Floodplain Safety Review Areas.**

27 (a) *Anchoring.* All new construction and substantial improvements of
28 structures, including manufactured homes, shall be anchored to the foundation to prevent

1 flotation, collapse or lateral movement of the structure resulting from hydrodynamic and
2 hydrostatic loads, including the effects of buoyancy. ~~If a structure is elevated on fill as
3 specified in §§ 82.14.050(c) and 82.14.050(d)(1), the anchoring requirement shall be
4 satisfied. Other alternative anchoring techniques that are effective may be considered.~~

5 (b) *Construction Materials and Methods.* All new construction and
6 improvements of structures whether substantial or not, including manufactured homes,
7 shall be constructed:

8 (1) With materials and utility equipment ~~installed below the area flood~~
9 ~~elevation or the highest adjacent grade that are resistant to flood damage~~ resistant to flood
10 damage when installed in areas below the base floor elevation or the highest adjacent
11 grade. This would include but not be limited to water-resistant lumber, floor coverings,
12 adhesives, paints, masonry construction and finishes, waterproof electrical systems, and
13 mechanical footings, or other acceptable materials measures. (See FEMA Technical
14 Bulletin TB 2-93.)

15 (2) Using methods and practices that minimize flood damage.

16 (3) With electrical, heating, ventilation, plumbing and air conditioning
17 equipment and other service facilities that are designed and/or located so as to prevent
18 water from entering or accumulating within the components during conditions of flooding.

19 (4) So that within Zones AH or AO, adequate drainage paths are
20 provided around structures on slopes to guide flood waters around and away from
21 proposed structures.

22 (c) *Grading.* If fill is placed to elevate pads above base elevation, it must be
23 demonstrated that fill will not settle and is protected from erosion, scour, or differential
24 settlement, as follows.

25 (1) The pad elevation shall be certified to meet or exceed the elevation
26 required by the applicable Floodplain Safety Review Area, and it must be demonstrated
27 that the cumulative effect of the proposed development when combined with all other
28 existing and anticipated development will not increase the water surface elevation of the

1 base flood at any point within the community.

2 (2) Fill shall be compacted to 95 percent per ASTM (American Society
3 of Testing Materials) Standard D-698.

4 (3) Fill slopes shall be no steeper than two feet horizontal to one foot
5 vertical ratio unless substantiating data for steeper slopes is provided, and the slopes are
6 approved by the County.

7 (4) Fill slopes adjacent to a water course may be required to be armored
8 with stone, rock or approved equal protection.

9 (d) *Elevation and Flood-proofing.*

10 (1) *Residential Structures.* New construction and substantial
11 improvement of any residential structure shall include having the lowest floor (including
12 basement) ~~elevated to one foot above based flood elevation/flood depth or two feet or~~
13 ~~more above the highest adjacent grade in the 100-year floodplain area, and one foot~~
14 ~~above highest adjacent grade in the 100 to 500-year floodplain area. Upon completion~~
15 ~~of the structure, the elevation of the lowest floor (including basement) shall be certified by~~
16 ~~a registered civil engineer or licensed land surveyor to be properly elevated about the~~
17 ~~floodplain elevation at the time of certification. The certification shall be provided on the~~
18 ~~current FEMA Elevation Certificate from the Building Official. In accordance with FEMA~~
19 ~~regulations (Substantial Improvement & Substantial Damage), the following shall apply~~
20 ~~relative to existing residential structures and substantial improvements:~~

21 (A) In AE, A1-30, AH Zones, elevated one foot above the base
22 flood elevation ~~If the cost of a rehabilitation or addition is not a substantial improvement,~~
23 ~~the existing building does not have to be elevated or otherwise protected. However, it is~~
24 ~~advisable to incorporate methods to reduce flood damage, such as use of flood-resistant~~
25 ~~materials and installation of electrical, heating and air conditioning units above the area~~
26 ~~flood elevation.~~

27 (B) In an AO zone, elevated above the highest adjacent grade to
28 a height one foot above the depth number specified in feet on the FIRM, or elevated at

1 ~~least two feet above the highest adjacent grade if no depth number is specified~~If the cost
2 ~~of a rehabilitation is a substantial improvement, the existing building shall be elevated~~
3 ~~and/or the basement filled to meet the elevation standard.~~

4 (C) In an A Zone, without BFE's specified on the FIRM, elevated
5 two- feet or more above the natural pre-development highest adjacent grade~~If an addition~~
6 ~~to a structure is a substantial improvement, the addition must be elevated or flood-~~
7 ~~proofed, providing that improvements to the existing structure are minimal. The existing~~
8 ~~structure may not have to be elevated if the common wall remains intact with the~~
9 ~~exception of a doorway. If the structure is within any A Zone and if substantial~~
10 ~~improvements are made to the existing structure (such as a kitchen makeover), both the~~
11 ~~existing structure and the addition must be elevated and otherwise brought into~~
12 ~~compliance.~~

13 (D) In a Shaded X Zone (the 100- to 500-year floodplain),
14 elevated one foot above the natural pre-development highest adjacent grade~~When a~~
15 ~~proposed substantial improvement is a vertical addition and the lower floor is to be used~~
16 ~~for any other purpose than a garage for the parking of private passenger vehicles, the~~
17 ~~entire structure must be elevated.~~

18 (E) Upon completion of the structure, the elevation of the lowest floor (including
19 basement) shall be certified by a registered civil engineer or licensed land surveyor to be
20 properly elevated above the floodplain elevation at the time of certification. The
21 certification shall be provided on the current FEMA Elevation Certificate form to the
22 Building Official~~Additions that are not substantial improvements shall meet the applicable~~
23 ~~requirements of § 82.14.050(b) above.~~

24 (2) *Nonresidential Construction.* New and substantial improvement of
25 nonresidential construction shall be either elevated in compliance with sectionSubdivision
26 82.14.050(d)(1)-of this Section or be dry flood-proofed. Dry flood-proofing shall consist of
27 all of the following:

28 (A) The area below the base flood level, together with attendant

1 utility and sanitary facilities, shall be constructed so that the structure is watertight with
2 walls substantially impermeable to the passage of water;

3 (B) The structural components shall be capable of resisting
4 hydrostatic and hydrodynamic loads and effects of buoyancy; and

5 (C) The structure shall be certified by a registered civil engineer
6 or architect that the standards of this Subdivision are satisfied. Such certifications shall
7 be provided to the Floodplain Administrator.

8 (3) *Flood Openings.* In addition to the provisions of ~~§—section~~
9 82.14.050(d)(1) and (2) above, all new construction and improvements to existing
10 structures with fully ~~enclosing enclosed structural~~ areas below the lowest floor ~~(excluding~~
11 ~~basements) that are used solely for parking of vehicles, building access or storage, and~~
12 ~~that are subject to flooding,~~ shall be designed to automatically equalize hydrostatic flood
13 forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for
14 meeting this requirement must meet the following minimum criteria:

15 (A) For non-engineered openings, have a minimum of two
16 openings on different sides having a total net area of not less than one square inch for
17 every square foot of enclosed area subject to flooding. The bottom of all openings shall
18 be no higher than one foot above grade. Openings may be equipped with screens,
19 louvers, valves or other coverings or devices provided that they permit the automatic entry
20 and exit of floodwaters. Also, buildings with more than one such enclosed area must have
21 openings on exterior walls for each area to allow flood water to directly enter and exit; or

22 (B) For engineered openings, be designed and ~~Be~~ certified by a
23 registered civil engineer or an architect. This certification must be verified by the
24 Floodplain Administrator.

25 (C) Enclosed areas below the lowest floor shall be unfinished and
26 used solely for parking of vehicles, building access or limited storage ~~Flood openings may~~
27 ~~not be appropriate on alluvial fans or high debris flow areas (i.e., alluvial fans) and are~~
28 ~~subject to review and approval by the appropriate County reviewing agency. Structural~~

1 ~~calculations that address hydrostatic and hydrodynamic loading shall be submitted by the~~
2 ~~applicant as part of this approval process.~~

3 (4) *Garages and Low Cost Accessory Structures.*

4 (A) *Attached Garages.*

5 (I) A garage attached to a residential structure,
6 constructed with the garage floor slab below the area-base flood elevation, must be
7 designed to allow for the automatic entry of flood waters. Areas of the garage below the
8 area-base flood elevation must be constructed with flood-resistant materials.

9 (II) A garage attached to a nonresidential structure must
10 meet the above requirements or be dry floodproofed. (For guidance on below grade
11 parking areas, see FEMA Technical Bulletin TB-6.)

12 (B) *Detached Garages and Accessory Structures.*

13 (I) ~~“Accessory—structures”~~Detached garages and
14 accessory storage structures used solely for parking (two-car detached garages or
15 smaller) or limited storage (small, low-cost sheds), may be constructed such that its floor
16 is below the area-base flood elevation, provided the structure is designed and constructed
17 in accordance with the following requirements:

18 (i) Are one story and not larger than 600 square
19 feet in area when located in special flood hazard areas~~Use of the accessory structure~~
20 ~~must be limited to parking or limited storage;~~

21 (ii) Are anchored to resist flotation, collapse or
22 lateral movement resulting from flood loads~~The portions of the accessory structure~~
23 ~~located below the area flood elevation must be built using flood-resistant materials;~~

24 (iii) Have flood damage-resistant materials used
25 below the base flood elevation~~The accessory structure must be adequately anchored to~~
26 ~~prevent flotation, collapse and lateral movement;~~

27 (iv) Have mechanical, plumbing and electrical
28 systems, including plumbing fixtures, elevated to or above the base flood elevation~~Any~~

1 ~~mechanical and utility equipment in the accessory structure must be elevated or flood-~~
2 ~~proofed to or above the area flood elevation;~~

3 (v) Use must be limited to parking or limited
4 storage~~The accessory structure must comply with floodplain encroachment provisions in~~
5 ~~§ 82.14.050(g)(1) below;~~

6 (vi) Must comply with floodplain encroachment
7 provisions in section 82.14.050(g)(1) below; and

8 (vii) ~~The accessory structure m~~Must be designed to
9 allow for the automatic entry of flood waters in accordance with ~~§~~section 82.14.050(d)(3)
10 above.

11 (II) Detached garages and accessory structures not
12 meeting the above standards must be constructed in accordance with all applicable
13 standards in this Section and to the elevations required by the Floodplain Safety Area in
14 which it is located.

15 (5) *Crawl Space Construction.* This Subdivision applies to buildings with
16 crawl spaces up to two feet below grade. Below-grade crawl space construction in
17 accordance with the requirements listed below will not be considered basements.

18 (A) The building must be designed and adequately anchored to
19 resist flotation, collapse, and lateral movement of the structure resulting from
20 hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawl space
21 construction is not allowed in areas with flood velocities greater than five feet per second
22 unless the design is reviewed by a qualified design professional, such as a registered
23 architect or civil engineer.;

24 (B) The crawl space is an enclosed area below the ~~area-base~~
25 flood elevation and, as such, must have openings that equalize hydrostatic pressures by
26 allowing for the automatic entry and exit of floodwaters. (For guidance on flood openings,
27 see FEMA Technical Bulletins 11-04 and 1-08).;

28 (C) Portions of the building below the ~~area-base~~ flood elevation

1 must be constructed with materials resistant to flood damage. This includes not only the
2 foundation walls of the crawl space used to elevate the building, but also any joists,
3 insulation, or other materials that extend below the area-base flood elevation. ~~;~~ and

4 (D) Any building utility systems within the crawl space must be
5 elevated above area-base flood elevation or designed so that floodwaters cannot enter
6 or accumulate within the system components during flood conditions.

7 (E) Requirements for all below-grade crawl space construction, in
8 addition to the above requirements, to include the following:

9 (I) The interior grade of a crawl space below the area-base
10 flood elevation must not be more than two feet below the lowest adjacent exterior grade;

11 (II) The height of the below-grade crawl space, measured
12 from the interior grade of the crawl space to the top of the crawl space foundation wall
13 must not exceed four feet at any point;

14 (III) There must be an adequate drainage system that
15 removes floodwaters from the interior area of the crawl space within a reasonable period
16 of time after a flood event, not to exceed 72 hours; and

17 (IV) The velocity of floodwaters at the site should not
18 exceed five feet per second for any crawl space. For velocities in excess of five feet per
19 second, other foundation types should be used.

20 (e) *Utility Standards.*

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

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

26 (3) All public utilities and facilities such as electrical, telephone, cable
27 TV, gas, etc., shall utilize flood-proofing measures in their location and construction to
28 minimize flood damage. They shall be adequately anchored to prevent flotation, collapse

1 or lateral movement of the facility resulting from hydrodynamic and hydrostatic loads,
2 including the effects of buoyancy.

3 (f) *Design Requirements.* All development proposals, including subdivisions,
4 shall comply with the following requirements:

5 (1) All preliminary proposals shall identify the special flood hazard area
6 and the elevation of the base flood, including floodways, as appropriate, and the elevation
7 of the base flood. Where the subdivision has more than 50 lots or is larger than 5 acres
8 and base flood elevations are not included on the FIRM, the base flood elevations shall
9 be determined by the applicant and the elevation of the base flood.

10 (2) All final plans shall provide the elevation of proposed structures and
11 pads above the floodplain elevation as derived from the FEMA map adopted at the time
12 of certification. When, as part of a proposed subdivision, fill will be placed to support
13 buildings, the fill shall be placed in accordance with the building code and approval of the
14 subdivision shall require that the final pad elevations be certified by a registered civil
15 engineer or licensed land surveyor and submitted to the Floodplain Administrator~~The~~
16 ~~entire site need not be elevated; only the building pads need be elevated and other means~~
17 ~~of conducting storm flows through the site shall be provided.~~

18 (3) All proposals shall be consistent with the need to minimize flood
19 damage.

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

22 (5) All proposals shall provide adequate drainage to reduce exposure to
23 flood hazards and not deflect flood flows onto other properties; in Zones AH and AO,
24 adequate drainage paths shall be provided to guide floodwater around and away from
25 proposed structures.

26 (g) *Manufactured Homes.* All new and replacement manufactured homes and
27 additions to manufactured homes shall comply with all applicable provisions in this
28 Section in addition to the following:

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(1) *Elevations.*

(A) Within Zones A1-30, AO, AH, and AE of the 100-year Floodplain Safety Review Area, all manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot or more above the base flood elevation or flood depth.

(B) Within Zone A, all manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to ~~three~~ two feet or more above the highest adjacent grade; ~~or.~~

(C) Within the 100 to 500-year Floodplain Safety Review Area, all manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot or more above the highest adjacent grade.

(2) All manufactured homes shall be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement. Methods of anchoring shall include, but not be limited to, the use of over-the-top or frame ties to ground anchors.

(3) Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor; and verified by the Floodplain Administrator.

(h) *Floodway Standards.* FEMA-designated floodways are extremely hazardous areas due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, therefore, the following provisions apply:

(1) Encroachments, including fill, new construction, substantial improvements, stockpiling, and other development are prohibited unless certification by a registered civil engineer or architect is provided, demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If ~~Subdivision~~ section 82.14.050(gh)(1) above is satisfied, all new construction and substantial improvements shall comply with all other applicable flood

1 hazard reduction provisions of this Chapter.

2 (i) *Recreational Vehicles*. All recreational vehicles placed in the 100-year
3 floodplain area will:

4 (1) Be on the site for fewer than 180 consecutive days; or

5 (2) Be fully licensed and ready for highway use. A recreational vehicle is
6 ready for highway use if it is on its wheels or jacking system, is attached to the site only
7 by quick disconnect-type utilities and security devices, and has no permanently attached
8 additions; or

9 (3) Meets the permit requirements of section§ 82.14.030 and the
10 elevation and anchoring requirements for manufactured homes in sectionSubdivision
11 82.14.050(g) above.

12 **82.14.060 ~~Exemptions and Modifications~~Variances.**

13 (a) ~~Exceptions~~exemptions. ~~Exception~~sempions to the provisions of this Chapter
14 may be made if a variance is obtained, as provided in this section, based on special or
15 unique circumstances associated with the property. The unique characteristics must
16 pertain to the land itself, not to the structure, its inhabitants, or the property owners~~The~~
17 ~~following structures and land uses are exempt from the requirements and standards~~
18 ~~established by this Chapter.~~

19 ~~(1) The reconstruction, rehabilitation or restoration of structures listed on the~~
20 ~~National Register of Historic Places or a State Inventory of Historic Places upon a~~
21 ~~determination by the Director that the proposed repair or rehabilitation will not preclude~~
22 ~~the structure's continued designation as an historic structure and the exemption is the~~
23 ~~minimum necessary to preserve the historic character and design of the structure.~~

24 ~~(2) Replacement of utilities, including septic systems, in compliance with health~~
25 ~~and safety codes shall be exempt from the flood elevation requirements of this~~
26 ~~Development Code and shall otherwise be subject to the legal non-conforming use~~
27 ~~provisions of this Development Code.~~

28 ~~(3) Structures of such a minor nature that they are exempt from development~~

1 ~~permits, provided it can be demonstrated that there is no effect contrary to the intent and~~
2 ~~purpose of the County's floodplain regulations.~~

3 (b) Review Authority. ~~The Commission shall hear and decide requests for~~
4 ~~variances from the strict application of these regulations, based on technical justifications~~
5 ~~submitted by applicants, the considerations and conditions set forth in this section, and~~
6 ~~the comments of the Floodplain Administrator and Building Official, as applicable. The~~
7 ~~Commission has the right to attach such conditions to variances as it deems necessary~~
8 ~~to further the purposes and objectives of these regulations and the building code.~~

9 (1) Restrictions in Floodways. ~~A variance shall not be issued for any~~
10 ~~proposed development in a floodway when any increase in base flood levels would result.~~

11 (2) Historic Structures. ~~A variance is authorized to be issued for the~~
12 ~~repair, improvement, or rehabilitation or restoration of structures listed on the National~~
13 ~~Register of Historic Places or a State Inventory of Historic Places upon a determination~~
14 ~~by the Director that the proposed repair or rehabilitation will not preclude the structure's~~
15 ~~continued designation as an historic structure and the exemption is the minimum~~
16 ~~necessary to preserve the historic character and design of the structure. When the~~
17 ~~proposed work precludes the structure's continued designation as a historic building, a~~
18 ~~variance shall not be granted and the structure and any repair, improvement, and~~
19 ~~rehabilitation shall be subject to the requirements of the building code.~~

20 (3) Functionally Dependent Uses. ~~A variance is authorized to be issued for the~~
21 ~~construction or substantial improvement necessary for the conduct of a functionally~~
22 ~~dependent use, provided the requirements of section 82.14.050 are met, as applicable,~~
23 ~~and the variance is the minimum necessary to allow the construction or substantial~~
24 ~~improvement, and that all due consideration has been given to use of methods and~~
25 ~~materials that minimize flood damages during the base flood and create no additional~~
26 ~~threats to public safety.~~~~Modifications. In the public interest, the Building Official or the~~
27 ~~Floodplain Administrator may, without notice or public hearing, approve, conditionally~~
28 ~~approve, deny or refer to the Commission requests to modify the requirements of the~~

1 ~~Floodplain Safety (FP) Overlay.~~

2 ~~(1) — Procedure. Written application (either Major Variance or Minor Variance) for~~
3 ~~such modifications shall be submitted to the Planning Division, upon the forms provided~~
4 ~~by the County for this purpose.~~

5 ~~(2) — Required Findings. A modification to the standards imposed by this Chapter~~
6 ~~shall be allowed subject to lawful conditions that will secure substantial protection for the~~
7 ~~public health, safety and general welfare and provided that all of the following be found~~
8 ~~and justified as being true:~~

9 ~~(A) — The modification, if within any designated regulatory floodway, will not result~~
10 ~~in any significant increase in flood levels during the base flood discharge.~~

11 ~~(B) — The modification is for new construction or substantial improvement, and~~
12 ~~other proposed new development to be erected on a lot of one-half acre or less in size~~
13 ~~contiguous to and surrounded by lots with existing structures constructed below the base~~
14 ~~flood level, providing that the procedures of this Chapter have been fully considered. As~~
15 ~~the lot size increases beyond one-half acre, the technical justification required for issuing~~
16 ~~the variance increases.~~

17 ~~(C) — The granting of the modification will not result in increased flood heights,~~
18 ~~additional threats to public safety, extraordinary public expense, create nuisances, cause~~
19 ~~fraud or victimization of the public or conflict with existing laws or ordinances.~~

20 ~~(D) — The modification is the minimum necessary, considering the flood hazard,~~
21 ~~to afford relief and is consistent with the objectives of sound floodplain management.~~

22 ~~(c) Procedure. Written application shall be submitted to the Department, upon~~
23 ~~the forms provided by the Department for this purpose.~~

24 ~~(1) Required Findings and Conditions. Variances shall only be issued~~
25 ~~upon:~~

26 ~~(A) Submission by the applicant of a showing of good and~~
27 ~~sufficient cause that the unique characteristics of the size, configuration, or topography~~
28 ~~of the site limit compliance with any provision of these regulations or renders the elevation~~

1 standards of the building code inappropriate.

2 (B) A determination that failure to grant the variance would result
3 in exceptional hardship due to the physical characteristics of the land that render the lot
4 undevelopable.

5 (C) A determination that the granting of a variance will not result
6 in increased flood heights, additional threats to public safety, extraordinary public
7 expense, create nuisances, cause fraud or victimization of the public or conflict with
8 existing laws or ordinances.

9 (D) The variance is the minimum necessary, considering the flood
10 hazard, to afford relief and is consistent with the objectives of sound floodplain
11 management.

12 (d) *Records.* The Floodplain Administrator shall maintain a permanent record
13 of all variance actions, including justification for issuance.

14 (ee) *Written Notification.* Any applicant to whom an ~~variance exemption or~~
15 ~~modification~~ is granted shall be given written notice. Such notice shall include notice that:

16 (1) The issuance of an ~~variance exemption or modification~~ to
17 construct a structure below the base flood level will result in increased premium rates for
18 flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and

19 (2) Such construction below the base flood level increases risks
20 to life and property. A Notice of Condition shall be recorded by the Floodplain
21 Administrator in the Office of the County Recorder and shall be recorded in a manner so
22 that it appears in the chain of title of the affected parcel of land.

23 **82.14.070 Boundary Changes.**

24 An applicant may apply to FEMA for an adjustment to the designated ~~area-base~~
25 flood elevation and/or other designations on the FIRM. Prior to submitting such
26 application to FEMA, all required documents required by FEMA must be submitted to the
27 Flood Control District for review and acknowledgment. Depending on the size, scope and
28 specific design of a land use proposal within the County, an applicant for such proposal

1 may be required to submit an application to FEMA for an adjustment to the area-base
2 flood elevation. The Department of Public Works will determine whether this FEMA
3 application is actually required.

4
5 SECTION 3. Chapter 86.04 of the San Bernardino County Code is amended in its
6 entirety, to read:

7 **CHAPTER 86.04: FLOODPLAIN ADMINISTRATOR**

8 **Section**

9 **86.04.010 Responsibilities of Floodplain Administrator.**

10
11 **86.04.010 Responsibilities of Floodplain Administrator.**

12 (a) *Appointment of Floodplain Administrator.* The Director of Public Works is
13 hereby appointed as the Floodplain Administrator to administer and implement the flood
14 management provisions of this Development County Code by ~~making recommendations~~
15 ~~for~~ granting or disapproving floodplain development permits in compliance with its
16 provisions.

17 (b) *Coordination in Performance of Duties.* The Floodplain Administrator, or an
18 appropriate designee, shall work in close coordination with the Director in the oversight
19 of floodplain development and performance of the Administrator's designated duties.

20 (c) *Duties and Responsibilities.* The duties and responsibilities of the
21 Floodplain Administrator, or an appropriate designee, shall include all of the following.

22 (1) Permit Review.

23 (A) Review all ~~development~~ permits for floodplain development to
24 determine that the ~~permit~~ requirements of this ~~Development Code~~ Chapter have been
25 satisfied, including determination of substantial improvement and substantial damage of
26 existing structures.

27 (B) Require that all other required Federal and State approvals
28 and permits be obtained.

1 (C) Determine whether the site is reasonably safe from flooding.

2 (D) Ensure that the proposed development does not adversely
3 affect the carrying capacity of areas where area-base flood elevations have been
4 determined but a floodway has not been designated. This means that the cumulative
5 effect of the proposed development when combined with all other existing and anticipated
6 development will not increase the water surface elevation of the base flood more than
7 one foot at any point within the County.

8 (E) Ensure that all Letters of Map Revision (LOMRs) for flood
9 control projects are approved prior to the issuance of building permits. Building permits
10 must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved
11 CLOMRs allow construction of the proposed flood control project and land preparation as
12 specified in the “start of construction” definition.

13 (2) *Use of Other Base Flood Data.* When area-base flood elevation data
14 has not been provided, the Floodplain Administrator shall obtain, review, and reasonably
15 utilize any area-base flood elevation and floodway data available from Federal, State, or
16 other sources, in order to administer the development standards and provisions
17 established by the Floodplain Safety Overlay.

18 (3) *Alteration or Relocation of Watercourses.* Whenever a watercourse
19 is to be altered or relocated and is within a Floodplain Safety Overlay, or within an area
20 identified as subject to flooding in any County approved Flood Hazard Study, the
21 Floodplain Administrator, or an appropriate designee, shall:

22 (A) *Provide Proper Notification.* Notify adjacent communities and
23 the California Department of Water Resources before the alteration or relocation of a
24 watercourse, and submit evidence of the notification to the Federal Insurance
25 Administration. The responsibility of providing the notification shall rest with the
26 Department for development projects and the Flood Control District for their respective
27 projects; and

28 (B) *Require that Flood-Carrying Capacity is Maintained.* Require

1 that the flood-carrying capacity of the altered or relocated portion of the watercourse is
2 maintained.

3 (4) *Base Flood Elevation Changes Due to Physical Alterations.*

4 ~~Whenever an area flood elevation is changed due to physical alterations, t~~The Floodplain
5 Administrator shall:

6 (A) Require applicants who propose to undertake development
7 activities that change base flood elevations, flood hazard area boundaries, or floodway
8 designations to provide hydrologic and hydraulic engineering analyses necessary to
9 submit a Letter of Map Change to FEMA; such submissions shall be made within 6
10 months of such data becoming available.~~Submit or assure that the permit applicant~~
11 ~~submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within~~
12 ~~six months of information becoming available or project completion, whichever comes~~
13 ~~first; and~~

14 (B) The Letter of Map Change analyses shall be prepared by a
15 qualified California Licensed Civil Engineer in a format required by FEMA. Submittal
16 requirements and processing fees shall be the responsibility of the applicant. Provided
17 FEMA issues a Conditional Letter of Map Revision, construction of proposed flood control
18 projects and land preparation for development are permitted, including clearing,
19 excavation, grading, and filling. Permits for construction of buildings shall not be issued
20 until the applicant satisfies the FEMA requirements for issuance of a Letter of Map
21 Revision.~~Ensure that all LOMRs for flood control projects are approved prior to the~~
22 ~~issuance of building permits. Building permits must not be issued based on Conditional~~
23 ~~Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the~~
24 ~~proposed flood control project and land preparation as specified in the “start of~~
25 ~~construction” definition.~~

26 (5) *Changes in Corporate Boundaries.* Notify FEMA in writing whenever
27 the corporate boundaries have been modified by annexation or other means and include
28 a copy of a map of the community clearly delineating the new corporate limits.

1 (6) Maintain Certifications. ~~Obtain and maintain for public inspection and~~
2 ~~make available the certifications required for developments within the Floodplain Overlay~~
3 ~~to include certifications for lowest floor elevations. This may be delegated to the Building~~
4 ~~Official.~~ Determine Substantial Improvement and Substantial Damage. For applications
5 for building permits to improve buildings and structures, including alterations, movement,
6 enlargement, replacement, repair, additions, rehabilitations, renovations, substantial
7 improvements, repairs of substantial damage, and any other improvement of or work on
8 such buildings and structures, the Floodplain Administrator, in coordination with the
9 Building Official, shall:

10 (A) Estimate the market value, or require the applicant to obtain
11 an appraisal of the market value prepared by a qualified independent appraiser, of the
12 building or structure before the start of construction of the proposed work. In the case of
13 repair, the market value of the building or structure shall be the market value before the
14 damage occurred and before any repairs are made.

15 (B) Compare the cost to perform the improvement, the cost to
16 repair the damaged building to its pre-damaged condition, or the combined costs of
17 improvements and repairs, when applicable, to the market value of the building or
18 structure.

19 (C) Determine and document whether the proposed work
20 constitutes substantial improvement or repair of substantial damage.

21 (D) Notify the applicant when it is determined that the work
22 constitutes substantial improvement or repair of substantial damage and that compliance
23 with the flood resistant construction requirements of the building code is required and
24 notify the applicant when it is determined that work does not constitute substantial
25 improvement or repair of substantial damage.

26 (7) Inspections. All development for which a floodplain development
27 permit is required shall be subject to inspection. For buildings and structures, certification
28 of the lowest floor elevation shall be prepared by a California Licensed Land Surveyor or

1 Civil Engineer and submitted to the building official and the Floodplain Administrator.

2 (78) *Interpret Exact Location of Boundaries.* Make interpretations where
3 needed, as to the exact location of the boundaries of the areas of special flood hazards
4 (e.g., where there appears to be a conflict between a mapped boundary and actual field
5 conditions). Any person contesting the location of the boundary may appeal the
6 interpretation in compliance with Chapter 86.07 (Public Hearings).

7 ~~(8) *Biennial Report. Complete and submit a Biennial Report to FEMA.*~~

8 (9) *Planning. Assure—Ensure* that the County’s General Plan is
9 consistent with floodplain management objectives.

10 (10) *Non-Conversion of Enclosed Areas below the Lowest Floor.* Ensure
11 that the areas below the area-base flood elevation are used solely for parking vehicles,
12 limited storage, or access to the building and not be finished for use as human habitation
13 without first becoming fully compliant with the floodplain development standards in effect
14 at the time of conversion by:

15 (A) Determining which applicants for new construction and/or
16 substantial improvements have fully enclosed areas below the lowest floor that are five
17 feet or higher;

18 (B) Entering into a “Non-Conversion Agreement for Construction
19 within Flood Hazard Area” or equivalent with the property owner who has such a structure.
20 The agreement shall be recorded with the County Recorder as a deed restriction. The
21 non-conversion agreement shall be in a form acceptable to the Floodplain Administrator
22 and County Counsel; and

23 (C) Inspecting any area of a structure below the area-base flood
24 elevation ~~to ensure compliance upon prior notice of at least 72 hours.~~

25 ~~(11) *Record of Exceptions. Maintain a record of all exceptions*~~
26 ~~*(exemptions or modifications) granted, including justification for their issuance, and report*~~
27 ~~*such exceptions issued in its biennial report submitted to the FEMA.*~~

28 (1211) *Prosecute Violations.* Take action to prosecute violations of the flood

1 safety provisions of this ~~Development County~~ Code as specified in Chapter 82.14
2 (Floodplain Safety Overlay).

3 (612) *Maintain Certifications and Records.* Obtain and permanently keep
4 and make available for public inspection all records that are necessary for the
5 administration of these regulations, including: Flood Insurance Studies and Flood
6 Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; records of
7 issuance of permits and denial of permits; determinations of whether proposed work
8 constitutes substantial improvement or repair of substantial damage; required
9 certifications and documentation for developments within the Floodplain Overlay to
10 include certifications for lowest floor elevation; notifications to adjacent communities,
11 FEMA, and the State related to alterations of watercourses; assurance that the flood
12 carrying capacity of altered waterways will be maintained; documentation related to
13 variances, including justification for issuance or denial; and records of enforcement
14 actions~~maintain for public inspection and make available the certifications required for~~
15 ~~developments within the Floodplain Overlay to include certifications for lowest floor~~
16 ~~elevations. This may be delegated to the Building Official.~~

17
18 SECTION 4. Subsections 810.01.080(gg)(42) through 810.01.080(gg)(56) are
19 amended and re-numbered to Subsections 810.01.080(gg)(43) through
20 810.01.080(gg)(57), respectively. For example: Subsection 810.01.080(gg)(42)
21 “REGULATORY FLOODWAY” is amended and re-numbered as 810.01.080(gg)(43)
22 “REGULATORY FLOODWAY.” Subsection 810.01.080(gg)(56) “WATER SURFACE
23 ELEVATION” is amended and re-numbered as subsections 810.01.080(gg)(57).”
24

25 SECTION 5. Section 810.01.080(gg)(42) is added to Chapter 810.01 of Division
26 10 of Title 8 of the San Bernardino County Code, to read:

27 **810.01.080 Definitions, F.**

28 ...

1 SIGNED AND CERTIFIED THAT A COPY
2 OF THIS DOCUMENT HAS BEEN DELIVERED
3 TO THE CHAIR OF THE BOARD

4 LYNNA MONELL, Clerk of the
5 Board of Supervisors

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1 STATE OF CALIFORNIA)
2) ss.
3 SAN BERNARDINO COUNTY)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors of
6 said County and State, held on the _____ day of _____, 2024, at which meeting
7 were present Supervisors: _____

8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to
9 wit:

10 AYES: SUPERVISORS:

11 NOES: SUPERVISORS:

12 ABSENT: SUPERVISORS:

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal
14 of the Board of Supervisors this ____ day of _____, 2024.

15 LYNNA MONELL, Clerk of the
16 Board of Supervisors of
17 San Bernardino County,
18 State of California

19 _____
20 Deputy

21 Approved as to Form:

22 TOM BUNTON
23 County Counsel

24 By: _____
25 JOLENA E. GRIDER
26 Deputy County Counsel

27 Date: _____
28