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URGENCY ORDINANCE NO. 4469

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

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

SECTION 1. Findings.

The Board of Supervisors of San Bernardino County finds that:

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

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

(c) The County is required to update the floodplain ordinance periodically in order to meet updated NFIP requirements. The modifications to the floodplain ordinance as provided in the proposed urgency ordinance are intended to reduce the risk of flooding; meet or exceed federal and state requirements; and will serve the public health, safety 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 (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 (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 Variances.
- 7 82.14.070 Boundary Changes.

8 **82.14.010 Authority and Purpose.**

9 (a) The Legislature of the State of California has, in Government Code sections
10 65302, 65560, and 65800, conferred upon local governments the authority to adopt
11 regulations designed to promote the public health, safety, and general welfare of its
12 citizenry.

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

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

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

21 (3) Manage the alteration of natural floodplains, stream channels, and
22 shorelines to minimize the impact of development on the natural and beneficial functions
23 of the floodplain.

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

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

- 1 (6) Contribute to improved construction techniques in the floodplain.
- 2 (7) Minimize damage to public and private facilities and utilities.
- 3 (8) Help maintain a stable tax base by providing for the sound use and
- 4 development of flood hazard areas.
- 5 (9) Minimize the need for rescue and relief efforts associated with
- 6 flooding.
- 7 (10) Ensure that property owners, occupants, and potential owners are
- 8 aware of property located in flood hazard areas.
- 9 (11) Minimize the need for future expenditure of public funds for flood
- 10 control projects and response to and recovery from flood events.
- 11 (12) Meet the requirements of the National Flood Insurance Program for
- 12 community participation as set forth in Title 44 Code of Federal Regulations, Section
- 13 59.22.

14 **82.14.020 Location Requirements.**

15 (a) *Establishment of Flood Hazard Areas.* The FP Overlay Areas described in

16 section 82.14.040 (Floodplain Safety Review Areas) are applied to areas of special flood

17 hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific

18 and engineering report entitled “Flood Insurance Study for San Bernardino County,

19 California, and Incorporated Areas,” dated May 8, 2024, and all subsequent amendments

20 and revisions thereto, and the accompanying Flood Insurance Rate Maps (FIRMs), and

21 all subsequent amendments and revisions to such maps; which documents are hereby

22 adopted by reference as a part of these regulations and serve as the basis for establishing

23 flood hazard areas. The most current copies of the Flood Insurance Study (FIS) and the

24 FIRMs are on file at the Department of Public Works.

25 (b) FIS establishes the minimum areas to which the FP Overlays may be

26 applied. Subsequent reports and maps may identify additional flood hazard areas, with

27 the possibility of adding, removing, or updating areas as directed by the San Bernardino

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1 County Flood Control District or other governmental agencies, such as the Corps of
2 Engineers. .

3 **82.14.030 Applicability.**

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

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

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

20 (c) *Implementation.* The requirements of this Chapter shall be integrated into
21 the processing and review of all land use applications and development permits where
22 specific flood hazard review and flood protection requirements are made by the County.

23 (d) *Warning and Disclaimer of Liability.* The degree of flood protection required
24 by this Chapter is considered reasonable for regulatory purposes and is based on
25 scientific and engineering considerations. Larger floods can and will occur on rare
26 occasions. Flood heights may be increased by man-made or natural causes. These
27 regulations do not imply that land outside the areas of special flood hazards or uses
28 permitted within such areas will be free from flooding or flood damages. These provisions

1 shall not create liability on the part of the County, any officer or employee thereof, the
2 State of California, or FEMA, for any flood damages that result from reliance on these
3 regulations or any administrative decision lawfully made hereunder.

4 (e) *Severability.* If any section, sentence, clause, or phrase of this Chapter is,
5 for any reason, declared by the courts to be unconstitutional or invalid, such decision shall
6 not affect the validity of the ordinance as a whole, or any part thereof, other than the part
7 so declared.

8 **82.14.040 Floodplain Safety Review Areas.**

9 The FP Overlay shall be subdivided into flood hazard zone areas. Proposed
10 development shall comply with the following requirements.

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

16 (1) *Review Procedures.* A project proposed in this area shall be subject
17 to a Floodplain Development Standards Review. These reviews shall ensure that the
18 proposed project complies with this County Code regarding flood protection measures
19 and shall require the submittal of an elevation certificate completed by a licensed land
20 surveyor, registered civil engineer, or architect who is authorized by State or local law to
21 certify elevation information.

22 (2) *Development Restriction.* In Zone AE areas where a base flood
23 elevation has been determined but no regulatory floodway has been designated by
24 FEMA, new construction, substantial improvement or other development (including fill)
25 shall not be permitted, unless it is demonstrated through hydrologic and hydraulic
26 analyses that the cumulative effect of the proposed development when combined with all
27 other existing and anticipated development will not increase the water surface elevation
28 of the base flood more than one foot at any point within the community.

1 (3) *FEMA-designated Floodways.* Floodways, as defined by FEMA, are
2 different from the Floodway Land Use Zoning District established in Chapter 82.01 (Land
3 Use Plan, Land Use Zoning Districts, and Overlays) and regulated by Chapter 82.03
4 (Agricultural and Resource Management Land Use Zoning Districts) of this Title. They
5 are defined as the channels of a river or other watercourse and the adjacent land areas
6 that must be reserved in order to discharge the base flood without cumulatively increasing
7 the water surface elevation. They are also referred to as “regulatory floodways” (see
8 subsection 810.01.080(gg)(43)). They are generally coterminous with the County’s
9 Floodway Land Use Zoning Districts. They are considered FEMA-designated flood
10 hazard zones in that they are included within the AE zone.

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

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

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

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

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

3 (2) *Development Standards.* Development standards for the
4 undetermined flood hazard area shall be determined case-by-case and shall be
5 dependent upon the specifications of the project. The California Department of Water
6 Resources Best Available Map may be used to determine standards in the undetermined
7 area. A Floodplain Development Standards Review may be required.

8 **82.14.050 Development Standards for Floodplain Safety Review Areas.**

9 (a) *Anchoring.* All new construction and substantial improvements of
10 structures, including manufactured homes, shall be anchored to the foundation to prevent
11 flotation, collapse or lateral movement of the structure resulting from hydrodynamic and
12 hydrostatic loads, including the effects of buoyancy.

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

16 (1) With materials and utility equipment resistant to flood damage when
17 installed in areas below the base floor elevation or the highest adjacent grade. This would
18 include but not be limited to water-resistant lumber, floor coverings, adhesives, paints,
19 masonry construction and finishes, waterproof electrical systems, and mechanical
20 footings, or other acceptable materials measures. (See FEMA Technical Bulletin TB 2.)

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

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

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

28 (c) *Grading.* If fill is placed to elevate pads above base elevation, it must be

1 demonstrated that fill will not settle and is protected from erosion, scour, or differential
2 settlement, as follows.

3 (1) The pad elevation shall be certified to meet or exceed the elevation
4 required by the applicable Floodplain Safety Review Area, and it must be demonstrated
5 that the cumulative effect of the proposed development when combined with all other
6 existing and anticipated development will not increase the water surface elevation of the
7 base flood at any point within the community.

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

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

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

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

16 (1) *Residential Structures.* New construction and substantial
17 improvement of any residential structure shall include having the lowest floor (including
18 basement):

19 (A) In AE, A1-30, AH Zones, elevated one foot above the base
20 flood elevation.

21 (B) In an AO zone, elevated above the highest adjacent grade to
22 a height one foot above the depth number specified in feet on the FIRM, or elevated at
23 least two feet above the highest adjacent grade if no depth number is specified.

24 (C) In an A Zone, without BFE's specified on the FIRM, elevated
25 two feet or more above the natural pre-development highest adjacent grade.

26 (D) In a Shaded X Zone (the 100- to 500-year floodplain),
27 elevated one foot above the natural pre-development highest adjacent grade.

28 Upon completion of the structure, the elevation of the lowest floor (including

1 basement) shall be certified by a registered civil engineer or licensed land surveyor to be
2 properly elevated above the floodplain elevation at the time of certification. The
3 certification shall be provided on the current FEMA Elevation Certificate form to the
4 Building Official.

5 (2) *Nonresidential Construction.* New and substantial improvement of
6 nonresidential construction shall be either elevated in compliance with section
7 82.14.050(d)(1) or be dry flood-proofed. Dry flood-proofing shall consist of all of the
8 following:

9 (A) The area below the base flood level, together with attendant
10 utility and sanitary facilities, shall be constructed so that the structure is watertight with
11 walls substantially impermeable to the passage of water;

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

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

17 (3) *Flood Openings.* In addition to the provisions of section
18 82.14.050(d)(1) and (2) above, all new construction and improvements to existing
19 structures with fully enclosed areas below the lowest floor shall be designed to
20 automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry
21 and exit of floodwaters. Designs for meeting this requirement must meet the following
22 minimum criteria:

23 (A) For non-engineered openings, have a minimum of two
24 openings on different sides having a total net area of not less than one square inch for
25 every square foot of enclosed area subject to flooding. The bottom of all openings shall
26 be no higher than one foot above grade. Openings may be equipped with screens,
27 louvers, valves or other coverings or devices provided that they permit the automatic entry
28 and exit of floodwaters. Also, buildings with more than one such enclosed area must have

1 openings on exterior walls for each area to allow flood water to directly enter and exit; or

2 (B) For engineered openings, be designed and certified by a
3 registered civil engineer or an architect. This certification must be verified by the
4 Floodplain Administrator.

5 (C) Enclosed areas below the lowest floor shall be unfinished and
6 used solely for parking of vehicles, building access or limited storage.

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

8 (A) *Attached Garages.*

9 (I) A garage attached to a residential structure,
10 constructed with the garage floor slab below the base flood elevation, must be designed
11 to allow for the automatic entry of flood waters. Areas of the garage below the base flood
12 elevation must be constructed with flood-resistant materials.

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

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

17 (I) Detached garages and accessory storage structures
18 used solely for parking (two-car detached garages or smaller) or limited storage (small,
19 low-cost sheds), may be constructed such that its floor is below the base flood elevation,
20 provided the structure is designed and constructed in accordance with the following
21 requirements:

22 (i) Are one story and not larger than 600 square
23 feet in area when located in special flood hazard areas;

24 (ii) Are anchored to resist flotation, collapse or
25 lateral movement resulting from flood loads;

26 (iii) Have flood damage-resistant materials used
27 below the base flood elevation;

28 (iv) Have mechanical, plumbing and electrical

1 systems, including plumbing fixtures, elevated to or above the base flood elevation;

2 (v) Use must be limited to parking or limited
3 storage;

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

6 (vii) Must be designed to allow for the automatic
7 entry of flood waters in accordance with section 82.14.050(d)(3) above.

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

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

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

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

25 (C) Portions of the building below the base flood elevation must
26 be constructed with materials resistant to flood damage. This includes not only the
27 foundation walls of the crawl space used to elevate the building, but also any joists,
28 insulation, or other materials that extend below the base flood elevation.

1 (D) Any building utility systems within the crawl space must be
2 elevated above base flood elevation or designed so that floodwaters cannot enter or
3 accumulate within the system components during flood conditions.

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

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

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

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

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

17 (e) *Utility Standards.*

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

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

23 (3) All public utilities and facilities such as electrical, telephone, cable
24 TV, gas, etc., shall utilize flood-proofing measures in their location and construction to
25 minimize flood damage. They shall be adequately anchored to prevent flotation, collapse
26 or lateral movement of the facility resulting from hydrodynamic and hydrostatic loads,
27 including the effects of buoyancy.

28 (f) *Design Requirements.* All development proposals, including subdivisions,

1 shall comply with the following requirements:

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

7 (2) All final plans shall provide the elevation of proposed structures and
8 pads above the floodplain elevation as derived from the FEMA map adopted at the time
9 of certification. When, as part of a proposed subdivision, fill will be placed to support
10 buildings, the fill shall be placed in accordance with the building code and approval of the
11 subdivision shall require that the final pad elevations be certified by a registered civil
12 engineer or licensed land surveyor and submitted to the Floodplain Administrator.

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

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

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

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

24 (1) *Elevations.*

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

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

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

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

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

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

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

22 (2) If section 82.14.050(h)(1) above is satisfied, all new construction and
23 substantial improvements shall comply with all other applicable flood hazard reduction
24 provisions of this Chapter.

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

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

28 (2) Be fully licensed and ready for highway use. A recreational vehicle is

1 ready for highway use if it is on its wheels or jacking system, is attached to the site only
2 by quick disconnect-type utilities and security devices, and has no permanently attached
3 additions; or

4 (3) Meets the permit requirements of section 82.14.030 and the
5 elevation and anchoring requirements for manufactured homes in section 82.14.050(g)
6 above.

7 **82.14.060 Variances.**

8 (a) *Exceptions.* Exceptions to the provisions of this Chapter may be made if a
9 variance is obtained, as provided in this section, based on special or unique
10 circumstances associated with the property. The unique characteristics must pertain to
11 the land itself, not to the structure, its inhabitants, or the property owners.

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

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

20 (2) *Historic Structures.* A variance is authorized to be issued for the
21 repair, improvement, or rehabilitation or restoration of structures listed on the National
22 Register of Historic Places or a State Inventory of Historic Places upon a determination
23 by the Director that the proposed repair or rehabilitation will not preclude the structure's
24 continued designation as an historic structure and the exemption is the minimum
25 necessary to preserve the historic character and design of the structure. When the
26 proposed work precludes the structure's continued designation as a historic building, a
27 variance shall not be granted and the structure and any repair, improvement, and
28 rehabilitation shall be subject to the requirements of the building code.

1 (3) *Functionally Dependent Uses.* A variance is authorized to be issued for the
2 construction or substantial improvement necessary for the conduct of a functionally
3 dependent use, provided the requirements of section 82.14.050 are met, as applicable,
4 and the variance is the minimum necessary to allow the construction or substantial
5 improvement, and that all due consideration has been given to use of methods and
6 materials that minimize flood damages during the base flood and create no additional
7 threats to public safety.

8 (c) *Procedure.* Written application shall be submitted to the Department upon
9 the forms provided by the Department for this purpose.

10 (1) *Required Findings and Conditions.* Variances shall only be issued
11 upon:

12 (A) Submission by the applicant of a showing of good and
13 sufficient cause that the unique characteristics of the size, configuration, or topography
14 of the site limit compliance with any provision of these regulations or renders the elevation
15 standards of the building code inappropriate.

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

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

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

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

28 (e) *Written Notification.* Any applicant to whom a variance is granted shall be

1 given written notice. Such notice shall include notice that:

2 (1) The issuance of a variance to construct a structure below the
3 base flood level will result in increased premium rates for flood insurance up to amounts
4 as high as \$25.00 for \$100.00 of insurance coverage; and

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

9 **82.14.070 Boundary Changes.**

10 An applicant may apply to FEMA for an adjustment to the designated base flood
11 elevation and/or other designations on the FIRM. Prior to submitting such application to
12 FEMA, all required documents required by FEMA must be submitted to the Flood Control
13 District for review and acknowledgment. Depending on the size, scope and specific
14 design of a land use proposal within the County, an applicant for such proposal may be
15 required to submit an application to FEMA for an adjustment to the base flood elevation.
16 The Department of Public Works will determine whether this FEMA application is actually
17 required.

18
19 SECTION 3. Chapter 86.04 of the San Bernardino County Code is amended in its
20 entirety, to read:

21 **CHAPTER 86.04: FLOODPLAIN ADMINISTRATOR**

22 **Section**

23 **86.04.010 Responsibilities of Floodplain Administrator.**

24
25 **86.04.010 Responsibilities of Floodplain Administrator.**

26 (a) *Appointment of Floodplain Administrator.* The Director of Public Works is
27 hereby appointed as the Floodplain Administrator to administer and implement the flood
28 management provisions of this County Code by granting or disapproving floodplain

1 development permits in compliance with its provisions.

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

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

7 (1) Permit Review.

8 (A) Review all permits for floodplain development to determine
9 that the requirements of this Chapter have been satisfied, including determination of
10 substantial improvement and substantial damage of existing structures.

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

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

14 (D) Ensure that the proposed development does not adversely
15 affect the carrying capacity of areas where base flood elevations have been determined
16 but a floodway has not been designated. This means that the cumulative effect of the
17 proposed development when combined with all other existing and anticipated
18 development will not increase the water surface elevation of the base flood more than
19 one foot at any point within the County.

20 (E) Ensure that all Letters of Map Revision (LOMRs) for flood
21 control projects are approved prior to the issuance of building permits. Building permits
22 must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved
23 CLOMRs allow construction of the proposed flood control project and land preparation as
24 specified in the "start of construction" definition.

25 (2) *Use of Other Base Flood Data.* When base flood elevation data has
26 not been provided, the Floodplain Administrator shall obtain, review, and reasonably
27 utilize any base flood elevation and floodway data available from Federal, State, or other
28 sources, in order to administer the development standards and provisions established by

1 the Floodplain Safety Overlay.

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

6 (A) *Provide Proper Notification.* Notify adjacent communities and
7 the California Department of Water Resources before the alteration or relocation of a
8 watercourse and submit evidence of the notification to the Federal Insurance
9 Administration. The responsibility of providing the notification shall rest with the
10 Department for development projects and the Flood Control District for their respective
11 projects; and

12 (B) *Require that Flood-Carrying Capacity is Maintained.* Require
13 that the flood-carrying capacity of the altered or relocated portion of the watercourse is
14 maintained.

15 (4) *Base Flood Elevation Changes Due to Physical Alterations.* The
16 Floodplain Administrator shall:

17 (A) Require applicants who propose to undertake development
18 activities that change base flood elevations, flood hazard area boundaries, or floodway
19 designations to provide hydrologic and hydraulic engineering analyses necessary to
20 submit a Letter of Map Change to FEMA; such submissions shall be made within 6
21 months of such data becoming available.

22 (B) The Letter of Map Change analyses shall be prepared by a
23 qualified California Licensed Civil Engineer in a format required by FEMA. Submittal
24 requirements and processing fees shall be the responsibility of the applicant. Provided
25 FEMA issues a Conditional Letter of Map Revision, construction of proposed flood control
26 projects and land preparation for development are permitted, including clearing,
27 excavation, grading, and filling. Permits for construction of buildings shall not be issued
28 until the applicant satisfies the FEMA requirements for issuance of a Letter of Map

1 Revision.

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

5 (6) *Determine Substantial Improvement and Substantial Damage.* For
6 applications for building permits to improve buildings and structures, including alterations,
7 movement, enlargement, replacement, repair, additions, rehabilitations, renovations,
8 substantial improvements, repairs of substantial damage, and any other improvement of
9 or work on such buildings and structures, the Floodplain Administrator, in coordination
10 with the Building Official, shall:

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

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

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

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

27 (7) *Inspections.* All development for which a floodplain development
28 permit is required shall be subject to inspection. For buildings and structures, certification

1 of the lowest floor elevation shall be prepared by a California Licensed Land Surveyor or
2 Civil Engineer and submitted to the building official and the Floodplain Administrator.

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

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

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

25 (11) *Prosecute Violations.* Take action to prosecute violations of the flood
26 safety provisions of this County Code as specified in Chapter 82.14 (Floodplain Safety
27 Overlay).

28 (12) *Maintain Certifications and Records.* Obtain and permanently keep

1 and make available for public inspection all records that are necessary for the
2 administration of these regulations, including: Flood Insurance Studies and Flood
3 Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; records of
4 issuance of permits and denial of permits; determinations of whether proposed work
5 constitutes substantial improvement or repair of substantial damage; required
6 certifications and documentation for developments within the Floodplain Overlay to
7 include certifications for lowest floor elevation; notifications to adjacent communities,
8 FEMA, and the State related to alterations of watercourses; assurance that the flood
9 carrying capacity of altered waterways will be maintained; documentation related to
10 variances, including justification for issuance or denial; and records of enforcement
11 actions.

12
13 SECTION 4. Subsections 810.01.080(gg)(42) through 810.01.080(gg)(56) are
14 amended and re-numbered to Subsections 810.01.080(gg)(43) through
15 810.01.080(gg)(57), respectively. For example: Subsection 810.01.080(gg)(42)
16 “REGULATORY FLOODWAY” is amended and re-numbered as 810.01.080(gg)(43)
17 “REGULATORY FLOODWAY.” Subsection 810.01.080(gg)(56) “WATER SURFACE
18 ELEVATION” is amended and re-numbered as subsections 810.01.080(gg)(57).”
19

20 SECTION 5. Section 810.01.080(gg)(42) is added to Chapter 810.01 of Division
21 10 of Title 8 of the San Bernardino County Code, to read:

22 **810.01.080 Definitions, F.**

23 . . .

24 **(gg) FLOOD HAZARD.** A substantial possibility of damage to life or property by
25 overflow water, ponded water, or other water on the surface of the land, or by debris, or
26 silt carried in the water. The following flood related terms are defined as follows:

27 . . .

28 **(42) RECREATIONAL VEHICLE.** For floodplain management purposes,

1 a vehicle that is built on a single chassis, 400 square feet or less when measured at the
2 largest horizontal projection, designed to be self-propelled or permanently towable by a
3 light-duty truck, and designed primarily not for use as a permanent dwelling but as
4 temporary living quarters for recreational, camping, travel or seasonal use. A recreational
5 vehicle is ready for highway use when it is on its wheels or jacking system, is attached to
6 the site only by quick disconnect type utilities and security devices and has no
7 permanently attached additions.

8
9 SECTION 6. Severability. The Board of Supervisors declares that it would have
10 adopted this urgency ordinance and each section, sentence, clause, phrase, or portion of
11 it irrespective of the fact that any one or more sections, subsections, clauses, phrases or
12 portions of it be declared invalid or unconstitutional. If for any reason any portion of this
13 urgency ordinance is declared invalid or unconstitutional, then all other provisions of it
14 shall remain valid and enforceable.

15
16 SECTION 7. This urgency ordinance is declared necessary for the immediate
17 preservation of the public peace, health, and/or safety for the reasons stated in Section
18 1, and shall take effect immediately upon its adoption pursuant to Government Code
19 section 25123, subdivision (d).

20
21 _____
22 DAWN ROWE, Chair
23 Board of Supervisors

24 SIGNED AND CERTIFIED THAT A COPY
25 OF THIS DOCUMENT HAS BEEN DELIVERED
26 TO THE CHAIR OF THE BOARD

27 LYNNA MONELL, Clerk of the
28 Board of Supervisors

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

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 9th day of April, 2024, at which meeting were present
7 Supervisors: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe
8 Baca, Jr., and the Clerk, the foregoing ordinance was passed and adopted by the
9 following vote, to wit:

10 AYES: SUPERVISORS: Col. Paul Cook (Ret.), Jesse Armendarez,
11 Dawn Rowe, Curt Hagman, Joe Baca, Jr.

12 NOES: SUPERVISORS: None

13 ABSENT: SUPERVISORS: None

14 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal
15 of the Board of Supervisors this 9th day of April, 2024.

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

20 _____
21 Deputy

22 Approved as to Form:

23 TOM BUNTON
24 County Counsel

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

28 Date: _____