

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

April 9, 2024

FROM

NOEL CASTILLO, Director, Department of Public Works

SUBJECT

Adoption of an Urgency Ordinance to Amend Title 8 of the County Code Relative to the Floodplain Safety Overlay

RECOMMENDATION(S)

1. Conduct a public hearing to consider an urgency ordinance amending Chapter 82.14, Chapter 86.04 and various subsections in Chapter 810.01 of Title 8 of the County Code relating to the floodplain safety overlay regulation, floodplain administrator regulations, and flood hazard definitions.
2. Find that the proposed urgency ordinance is exempt from the California Environmental Quality Act Guidelines pursuant to Title 14 of the California Code of Regulations, Section 15308, a Class 8 exemption for actions by a regulatory agency for the protection of the environment.
3. Adopt the findings as recommended by the Planning Commission for approval of the proposed urgency ordinance.
4. Make alterations, if necessary, to the proposed urgency ordinance.
5. Approve the introduction of the proposed urgency ordinance.
 - 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.
6. **ADOPT URGENCY ORDINANCE No. 4469** (Four votes required).
7. Direct the Department of Public Works to file the Notice of Exemption in accordance with the California Environmental Quality Act.

(Presenter: Noel Castillo, Director, 387-7906)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Promote the Countywide Vision.

Improve County Government Operations.

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The proposed urgency ordinance amendment will not result in significant costs to the

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Department of Public Works (Department), as the minor administrative costs to amend the ordinance are minimal. Sufficient appropriation is included in the Department's 2023-24 budget.

BACKGROUND INFORMATION

The National Flood Insurance Program (NFIP) is a program that provides federally backed flood insurance to homeowners, renters, and business owners in participating communities. The NFIP was established by Congress in 1968 with the passage of the National Flood Insurance Act to reduce future flood damage and provide flood insurance. The County has participated in the NFIP since 1978.

The Federal Emergency Management Agency (FEMA) reviews the County Flood ordinance to ensure regulations are in full compliance with the NFIP minimum standards set forth in the Code of Federal Regulations (CFR) Title 44 Sections 59-60 before revisions to regulatory Flood Insurance Rate Maps (FIRMs) become effective. FIRMs are authoritative maps produced by FEMA to delineate flood risk zones, serving as a crucial tool for assessing and managing floodplain areas and guiding flood insurance determinations. If standards are not in compliance, it will result in an automatic suspension from the NFIP.

FEMA recently completed a flood study revision for areas of the county, resulting in a completed Flood Insurance Study (FIS) and updated FIRMs for the County. These products are set to become effective on May 8, 2024, which is the deadline for the County's floodplain regulations to be in full compliance with the NFIP minimum standards. This deadline was set by FEMA in the Letter of Final Determination issued to the County. Accordingly, updates to the County's floodplain regulations must be in effect in order to bring the County Code into compliance and submit the necessary materials to FEMA prior to the May 8, 2024, deadline.

The ordinance is proposed as an urgency measure, requiring four votes for adoption, as allowed under State law, as necessary for the immediate protection and preservation of public peace, health, safety and welfare, and shall take effect immediately upon its adoption, pursuant to Government Code section 25123(d). Ensuring compliance with FIS and FIRMs for the County is necessary to avoid suspension or probation from the NFIP program. Suspension from the Program may negatively impact or restrict the availability of flood insurance to residents affected during flooding events and will ensure the protection of public health, safety, and welfare by continuing to allow participation for insurance to homeowners, renters, and business owners under the NFIP. The NFIP Program is intended to be a critical resource for financial protection to residents during flood events and source of federal disaster assistance programs, including grants, to aid in flood recovery and impacts of disasters.

The revisions to the ordinance are necessary to comply with NFIP standards, by using the language from the California State Model Flood Hazard Ordinance, which is approved by the California Department of Water Resources and by FEMA Region 9. This helps organizations follow the flood-related rules in the California Code of Regulations (CCR) Title 24.

The purpose of the proposed urgency ordinance is to ensure that the County's Floodplain Safety (FPS) Overlay regulations set forth in the County Development Code are consistent with FEMA maps and regulations, which are already utilized by the County as the primary source of floodplain management requirements. The following items are the principal changes to the FPS Overlay regulations in the Development Code:

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- Chapter 82.14 – Update the chapter language to adopt the new flood study revision recently completed by FEMA.
- Chapter 86.04 – Update the chapter's language according to the model provided by the California Department of Water Resources, and minimum NFIP requirements.
- Chapter 810.01 – Add the definition of Recreational Vehicle to align with the FEMA definition.

The proposed amendment to the County Development Code was considered by the Planning Commission in a public hearing conducted on February 22, 2024. There was no public testimony. The Planning Commission recommended approval of the proposed ordinance by a 3-0 vote (Second District Commissioner absent and Fourth District Commissioner vacant).

The proposed urgency ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to section 15308 of the CEQA Guidelines, a Class 8 exemption for actions by a regulatory agency for the protection of the environment. The proposed urgency ordinance is an update of public safety regulations enacted to avoid environmental impacts and which involves updating the County's existing floodplain ordinance to address revisions requested by FEMA and to meet additional requirements as a condition of continued eligibility to participate in the NFIP. The Department is directed to file the Notice of Exemption in accordance with the CEQA.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Jason M. Searles, Supervising Deputy County Counsel, and Aaron Gest, Deputy County Counsel, 387-5455) on March 19, 2024; Finance (Jessica Trillo, Administrative Analyst, 387-4222) on March 6, 2024; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on March 10, 2024.

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Record of Action of the Board of Supervisors
San Bernardino County

Hearing Opened
Public Comment: None
Hearing Closed

APPROVED

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: April 9, 2024



cc: File - Transportation w/ attachments
JLL 04/11/2024