

Chapter 5A
DISASTERS AND EMERGENCIES¹

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ARTICLE I. IN GENERAL

SEC. 5A.1 PURPOSES OF CHAPTER

The declared purposes of this chapter are to provide for the preparation and carrying out of plans for the protection of persons and property within this City in the event of any emergency, the direction of the emergency organization, and the coordination of the emergency functions of this City with all other public agencies, corporations, organizations and affected private persons. (Ord. No. 301 N.S., §1)

SEC. 5A.2 "EMERGENCY" DEFINED

As used in this chapter, "emergency" shall mean the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within this City caused by such conditions as fire, flood, storm, epidemic, riot, earthquake or other conditions, including conditions resulting from war or imminent threat of war, but other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of this City, requiring the combined forces of other political subdivisions to combat. (Ord. No. 301 N.S., §2)

For state Emergency Services Act, see Gov. C. §8550 et seq. As to local disaster councils, see Gov. C §§8610 to 8614. As to local emergency, see Gov. C. §§8630 to 8634.

SEC. 5A.3 DISASTER COUNCIL-CREATED; COMPOSITION; OFFICERS

The City Disaster Council is hereby created and shall consist of the following:

- (a) The City Administrator, who shall be chairman.
- (b) The Fire Chief, who shall be vice-chairman.
- (c) The Police Chief.
- (d) Such representatives of civic, business, labor, veterans, professional or other organizations having an official emergency responsibility, as may be appointed by the director with the advice and consent of the City Council. (Ord. 725 N.S. 12/16; Ord. 301 N.S.)

SEC. 5A.4 SAME POWERS AND DUTIES GENERALLY; MEETINGS

It shall be the duty of the City Disaster Council, and it is hereby empowered, to develop and recommend for adoption by the City Council, emergency and mutual aid plans and agreements and such ordinances and resolutions and rules and regulations as are necessary to implement such plans and agreements. The disaster council shall meet upon call of the chairman or, in his absence from the City or inability to call such meeting, upon call of the vice-chairman. (Ord. No. 301 N.S., §4)

SEC. 5A.5 DIRECTOR AND ASSISTANT DIRECTOR OF EMERGENCY SERVICES - DESIGNATED

- (a) There is hereby created the Office of Director of Emergency Services. The City Administrator shall be the Director of Emergency Services.
- (b) There is hereby created the Office of Assistant Director of Emergency Services, who shall be the Fire Chief. (Ord. 725 N.S. 12/16; Ord. 301 N.S.)

SEC. 5A.6 SAME - POWERS AND DUTIES

- (a) The director, or during his absence, inability to act or at his direction, the assistant director is hereby empowered to:
 - (1) Request the City Council to proclaim the existence or threatened existence of a "local emergency" if the City Council is in session, or to issue such proclamation if the City Council is not in session. Whenever a local emergency is proclaimed by the director, the City Council shall take action to ratify the proclamation within seven days thereafter or the proclamation shall not have further force or effect.

- (2) Request the governor of the state to proclaim a "state of emergency" when, in the opinion of the director, the locally available resources are inadequate to cope with the emergency.
- (3) Control and direct the effort of the emergency organization of this City for the accomplishment of the purposes of this chapter.
- (4) Direct cooperation between and coordination of services and staff of the emergency organization of this City, and resolve questions of authority and responsibility that may arise between them.
- (5) Represent this City in all dealings with public or private agencies on matters pertaining to emergencies as defined herein.
- (6) In the event of a proclamation of a "local emergency" as herein provided, the proclamation of a "state of emergency" by the governor or the director of the state office of emergency services or the existence of a "state of war emergency", the director is hereby empowered:
 - a. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, that such rules and regulations must be confirmed at the earliest practicable time by the City Council.
 - b. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof and, if required immediately, to commandeer the same for public use.
 - c. To require emergency services of any City officer or employee and, in the event of the proclamation of a "state of emergency" in the county in which this City is located or the existence of a "state of war emergency" to command the aid of as many citizens of this community as he deems necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for registered disaster service workers.
 - d. To requisition necessary personnel or material of any City department or agency.
 - e. To execute all of his ordinary power as chief administrative officer, all of the special powers conferred upon him by this chapter or by resolution or emergency plan pursuant hereto adopted by the City Council, all powers conferred upon him by

any statute, by any agreement approved by the City Council and by any other lawful authority.

(b) The director of emergency services shall designate the order of succession to that office, to take effect in the event the director is unavailable to attend meetings and otherwise perform his duties during an emergency. Such order of succession shall be approved by the City Council.

(c) The assistant director shall, under the supervision of the director and with the assistance of emergency services chiefs, develop emergency plans and manage the emergency programs of this City, and shall have such other powers and duties as may be assigned by the director. (Ord. No. 301 N.S., §6)

SEC. 5A.7 EMERGENCY ORGANIZATIONS

All officers and employees of this City, together with those volunteer forces enrolled to aid them during an emergency and all groups, organizations and persons who may by agreement or operation of law, including persons impressed into service under the provisions of paragraph (a)(6)c. of Section 5A.6, be charged with duties incident to the protection of life and property in this City during such emergency, shall constitute the emergency organization of the City. (Ord. No. 301 N.S., §7)

SEC. 5A.8 EMERGENCY PLAN

The City Disaster Council shall be responsible for the development of the City emergency plan, which plan shall provide for the effective mobilization of all the resources of this City, both public and private, to meet any condition constituting a local emergency, state or emergency or state of war emergency, and shall provide for the organization, powers, and duties, services and staff of the emergency organization. Such plan shall take effect upon adoption by resolution of the City Council. (Ord. No. 301 N.S., §8)

SEC. 5A.9 EXPENDITURES

Any expenditures made in connection with emergency activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City. (Ord. No. 301 N.S., §9)

SEC. 5A.10 PROHIBITED ACTS

It shall be a misdemeanor, punishable by a fine of not to exceed five hundred dollars, or by imprisonment for not to exceed six months, or both, for any person, during an emergency, to:

(a) Willfully obstruct, hinder or delay any member of the emergency organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of his chapter.

(b) Do any act forbidden by any lawful rule or regulation issued pursuant to this chapter, if such act is of such a nature as to give or be likely to give assistance to the enemy or to imperil the lives or property of inhabitants of this City, or to prevent, hinder or delay the defense or protection thereof.

(c) Wear, carry or display, without authority, any means of identification specified by the emergency agency of the state. (Ord. No. 301 N.S., §10)

ARTICLE II. FLOODPLAIN MANAGEMENT

SEC. 5A.11 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

- a. Area of Special Flood Hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- b. Base flood means a flood which has a one percent chance of being equalled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.
- c. Building - see Structure
- d. Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- e. Flood or Flooding means:
 1. a general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; or mudslides (i.e., mudflows) which are proximately caused by flooding as defined herein and are akin to a river of liquid & flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water & deposited along the path of the current.
 2. the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusual and unforeseeable event which results in flooding as defined in this definition.

- f. Floodplain or Flood-prone Area means any land area susceptible to being inundated by water from any source - see Flooding.
- g. Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations, the Director of Public Works.
- h. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- i. Floodplain Management Regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.
- j. Governing body is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.
- k. Historic structure means any structure that is
 - 1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - 2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - 3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 - 4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.
- l. Manufactured Home means a structure, transportable in one or more sections,

which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

- m. Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- n. New Construction, for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.
- o. One-Hundred-Year Flood or "100-year flood" - see Base flood.
- p. Recreational Vehicle means a vehicle which is
 - 1. built on a single chassis;
 - 2. 400 square feet or less when measured at the largest horizontal projection;
 - 3. designed to be self-propelled or permanently towable by a light-duty truck; and
 - 4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- q. Start of Construction includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- r. Structure means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

- s. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

- t. Substantial Improvement means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either
 - 1. any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - 2. any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure". (Ord. 665 N.S. 07/06)

SEC. 5A.12 GENERAL PROVISIONS

- 5A.12.1 Land to Which this Ordinance Applies. This ordinance shall apply to all areas identified as flood-prone within the jurisdiction of City of Piedmont

- 5A.12.2 Basis for Establishing Flood-Prone Areas. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood data available from other Federal or state agencies or other source to identify flood-prone areas within the jurisdiction of City of Piedmont. This data will be on file at 120 Vista Avenue, Piedmont, CA 94611.

- 5A.12.3 Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

- 5A.12.4 Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent

restrictions shall prevail.

5A.12.5 Interpretation. In the interpretation and application of this ordinance, all provisions shall be

- A. considered as minimum requirements;
- B. liberally construed in favor of the governing body; and
- C. deemed neither to limit nor repeal any other powers granted under state statutes.

5A.12.6 Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City Council any officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

5A.12.7 Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 665 N.S. 07/06)

SEC. 5A.13 ADMINISTRATION

5A.13.1 Establishment of Development Permit. A development permit shall be obtained for all proposed construction or other development in the community, including the placement of manufactured homes, so that it may be determined whether such construction or other development is within flood-prone areas.

5A.13.2 Designation of the Floodplain Administrator. The Director of Public Works is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

5A.13.3 Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following.

- A. Permit Review. Review all development permit applications to determine that
 - 1. permit requirements of this ordinance have been satisfied,
 - 2. all other required state and federal permits have been obtained, and
 - 3. the site is reasonably safe from flooding.
- B. Review and Use of Any Other Base Flood Data. The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood data available from other Federal or state agency or other source.

SEC. 5A.14 PROVISIONS FOR FLOOD HAZARD REDUCTION

5A.14.1 Standards of Construction. If a proposed building site is in a flood-prone area, all new construction and substantial improvements, including manufactured homes, shall:

- A. Be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Be constructed:
 - 1. with materials and utility equipment resistant to flood damage;
 - 2. using methods and practices that minimize flood damage;
 - 3. with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5A.14.2 Standards for Subdivisions or Other Proposed New Development. If a subdivision proposal or other proposed new development, including manufactured home parks or subdivisions, is in a flood-prone area, any such proposals shall be reviewed to assure that:

- A. All such proposals are consistent with the need to minimize flood damage within the floodprone area;
- B. All public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards.

5A.14.3 Standards for Utilities.

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - 1. infiltration of flood waters into the systems, and
 - 2. discharge from the systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding. (Ord. 665 N.S. 07/06)

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