

ORDINANCE NO. 2015-0006

Adopted by the Sacramento City Council

March 31, 2015

AN ORDINANCE ADDING SECTION 15.104.065 TO ARTICLE 1 OF CHAPTER 15.104 OF THE SACRAMENTO CITY CODE RELATING TO ZONE A99 FLOOD DESIGNATION

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 15.104.065 is added to Article 1 of Chapter 15.104 of the Sacramento City Code to read as follows:

15.104.065. Zone A99 regulations

A. Statement of purpose and findings of fact.

1. This section is designed to protect the public health and safety, and protect against physical risk to persons and property and losses due to flood conditions in the portion of the Natomas Basin within the city under a Zone A99 flood designation.

2. Land within the Natomas Basin has historically been subject to periodic flooding. To mitigate flood risk, a system of levees was constructed around the basin's perimeter. For communities protected by levees, FEMA's regulations require a professional engineer's certification that the levees meet federal requirements for design, construction, maintenance, and operation, to protect against a 100-year flood. (See the National Flood Insurance Act of 1968, set out in 42 U.S.C. § 4001 et seq.; see also FEMA's implementing regulations, set out in 44 C.F.R. Parts 59.1, 60, and 61.)

3. In 2006, primarily because of concern about a phenomenon known as "underseepage," the United States Army Corps of Engineers (the Corps) determined that it could no longer certify the Natomas Basin levee system as providing protection from a 100-year flood. In 2008, the Corps completed additional analysis and determined that the levee system may not provide protection from a flood with a 3% chance of occurring in any given year.

4. Based on the Corps's determinations, FEMA determined in 2008 that the Natomas Basin is a special flood hazard area and designated the basin as Zone AE on the basin's FIRM, indicating a 1% annual risk of flooding and a 26% chance of flooding over the term of a 30-year mortgage. As a result, since December 2008 property owners in the Natomas Basin have been required to carry flood insurance for their homes and businesses, and new development has been severely limited: among other

things, with some limited exceptions, the lowest floor of new building must be one foot above the base flood elevation. In addition, properties that suffer substantial damage are currently subject to stringent restrictions on rebuilding: if a structure suffers a catastrophic event and the restoration cost equals or exceeds 50% of the structure's pre-damage value, then in most cases the structure must be brought into compliance with regulations that govern new construction on land designated as Zone AE, including the requirement that the lowest floor be one foot above base flood elevation. Because the base flood elevation in the Natomas Basin is 33 feet, the Zone AE designation has effectively stopped both new construction and the restoration of substantially damaged existing buildings.

5. Working with the Corps and other agencies, the Sacramento Area Flood Control Agency (SAFCA) is currently carrying out the Natomas Levee Improvement Program (the NLIP) to address the deficiencies in the levee system. The immediate goal of the NLIP is to provide the Natomas Basin with protection against a 100-year flood as soon as possible; the long-term goal is to achieve protection against a 200-year flood (a flood with a 0.5% chance of occurring in any given year).

6. In early December 2012, in reliance on SAFCA's A99 Eligibility Summary Report, the city, Sacramento County, and Sutter County requested that FEMA approve a revision of the Natomas Basin FIRM from Zone AE to Zone A99, with final approval contingent on congressional authorization of the Corps's remaining work. Zone A99 is an interim designation that will allow new development to proceed without elevation while the improvements needed to provide 100-year protection are under construction—but it is still a special flood hazard area. Property owners would need to maintain flood insurance until 100-year protection is achieved and FEMA changes the basin's designation on the FIRM from Zone A99 to Zone X (Shaded).

7. The 2014 Water Resources Reform & Development Act (WRRDA) directs the Corps to strengthen 24 miles of levees surrounding the Natomas Basin. While WRRDA authorizes funding, Congress must also pass annual appropriations totaling approximately \$600 million to finish the improvements that are needed to achieve 100-year flood protection.

8. Completion of the NLIP could be delayed for a variety of reasons, including longer-than-expected construction periods and delays in receiving local, state, or federal funding.

9. There are over 100,000 residents in the Natomas Basin and approximately \$7 billion worth of damageable property. Flooding can result in property damage, loss of life, health and safety hazards, and disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief,

and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

10. The city must regulate construction in all floodplains and floodways to protect life and property, and to promote the orderly development and wise use of the city's floodplains.

11. The city must consider the status of the NLIP and the factors outlined above and balance them against housing inventory; infrastructure financing; investment-backed expectations; development entitlements; the city's ongoing update to its Floodplain Management Plan, which includes emergency planning, additional building standards, protection of critical facilities, and identification of at-risk populations; and the city's new early warning system.

12. The city council finds that the full measure of relief from building restrictions that is allowed under a Zone A99 interim designation does not strike the appropriate balance of these interests at this time, considering risks of flooding and the reasonable and feasible actions already taken or underway to mitigate potential damage with new development in a special flood hazard area. The city council finds that limiting the number of dwelling units developed in each year is necessary to protect the public health and safety, and protect against physical risk to persons and property and losses due to flood conditions in the portion of the Natomas Basin within the city under a Zone A99 flood designation. Based on interpretation of 2010 Census data, the population per dwelling unit is typically less for multiple dwelling units than for single units – resulting in fewer persons and property at risk. At a citywide level, for Census blocks with predominantly multiple dwelling unit types, the average household size was 2.1 persons per household. For Census blocks with predominantly single dwelling unit types, the average household size was 2.7 persons per household. The Sacramento Area Council of Government's regional traffic models differentiate by building types with smaller attached units generating smaller household sizes than larger detached building types. Multiple dwelling unit types typically comprise fewer square feet per dwelling unit than single unit types, indicating the damageable property per dwelling unit is lower for multiple unit types. The city anticipates approximately two-thirds of the build-out housing units in Natomas as single dwelling unit types and one-third as multi-unit types. The city council finds that any residential development limitation should be a balance between single and multiple dwelling unit types.

13. To protect the public health and safety consistent with the above it is necessary to enact the limitations set forth in subsection B on development while Zone A99 designation is in effect.

B. Dwelling units.

In addition to compliance with the other provisions of this chapter, issuance of building permits for new dwelling units located within Zone A99 is subject to the following:

1. Limit on number of dwelling units.

- a. For purposes of this section the following definitions apply. “Dwelling unit” means one or more rooms that include permanent provision for living, sleeping, eating, cooking, and sanitation that are occupied for residential purposes by one or more persons living as a single housekeeping unit. All rooms within a dwelling unit must have their principal entrance from inside the dwelling unit. “Single-unit dwelling” means a structure designated for residential occupancy containing not more than one dwelling unit. “Multi-unit dwelling” means a structure designed for residential occupancy containing two or more dwelling units, or single-unit dwellings sharing a common wall.

- b. The city may issue building permits for not more than 1,000 new single-unit dwellings in a calendar year. The city may issue building permits for not more than 500 new multi-unit dwellings in a calendar year. The following are not dwelling units for purposes of this subsection:

1. Substantial improvement of an existing dwelling unit.

2. Improvement of an existing dwelling unit to correct violations of existing state or local health, sanitary, or safety code specifications which are the minimum necessary to assure safe living conditions.

3. Alteration of an historic structure if the alteration will not preclude the structure’s continued designation as a historic structure.

- c. If the city issues building permits for fewer than 1,000 new single-unit dwellings, or 500 new dwelling units in multi-unit dwellings, in calendar year 2015, then the remaining number of dwelling units for which building permits could have been issued will be added to the allowed number for the 2016 calendar year.

2. Additional dwelling units.

The city may issue building permits for dwelling units in excess of the limit in subsection B.1, above, if the city council by resolution makes the following findings:

- a. Allowing the units is consistent with protecting the public health and safety; and

b. Allowing the units is consistent with the actions already taken or underway to mitigate potential damage relating to new development in a special flood hazard area; and

c. Allowing the units promotes the orderly development and wise use of the city's floodplains.

Adopted by the City of Sacramento City Council on March 31, 2015, by the following vote:

Ayes: Members Ashby, Carr, Hansen, Harris, Jennings, and Mayor Johnson

Noes: None

Abstain: None

Absent: Members Schenirer and Warren

Vacant: District 6

Attest:

Shirley Concolino Digitally signed by Shirley Concolino
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City
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Date: 2015.04.10 15:07:58 -07'00'

Shirley Concolino, City Clerk

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