CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Lori Wilson, Mayor Pro-Tem
Jane Day
Michael J. Hudson
Michael A. Segala

CITY COUNCIL MEETING

First and Third Tuesday
Every Month

AGENDA

SPECIAL MEETING OF THE SUISUN CITY COUNCIL

AND

SUISUN CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY

TUESDAY, DECEMBER 16, 2014

5:30 P.M.

SUISUN CITY COUNCIL CHAMBERS -- 701 CIVIC CENTER BOULEVARD -- SUISUN CITY, CALIFORNIA

TELECONFERENCE NOTICE
Pursuant to Government Code Section 54953, Subdivision (b), the following City Council/Successor Agency meeting includes teleconference participation by Council Member Jane Day from: 301 Morgan Street, Suisun City, CA 94585.

ROLL CALL
Council / Board Members

PUBLIC COMMENT
(Requests by citizens to discuss any matter under our jurisdiction other than an item posted on this agenda per California Government Code §54954.3 allowing 3 minutes to each speaker).

CONFLICT OF INTEREST NOTIFICATION
(Any items on this agenda that might be a conflict of interest to any Councilmembers / Boardmembers should be identified at this time.)

CLOSED SESSION
Pursuant to California Government Code section 54950 the City Council / Suisun City Council Acting as Successor Agency will hold a Closed Session for the purpose of:

Joint City Council / Suisun City Council Acting as Successor Agency

1. PERSONNEL MATTERS
   Pursuant to California Government Code Section 54954.5 et seq. the Suisun City Council will hold a Closed Session for the purpose of Public Employee Performance Evaluation: City Attorney.

CONVENE OPEN SESSION
Announcement of Actions Taken, if any, in Closed Session.

ADJOURNMENT

A complete packet of information containing staff reports and exhibits related to each item for the open session of this meeting, and provided to the City Council, are available for public review at least 72 hours prior to a Council /Agency/Authority Meeting at Suisun City Hall 701 Civic Center Blvd., Suisun City. Agenda related writings or documents provided to a majority of the Council/Board/Commissioners less than 72 hours prior to a Council/Agency/Authority meeting related to an agenda item for the open session of this meeting will be made available for public inspection during normal business hours. An agenda packet is also located at the entrance to the Council Chambers during the meeting for public review. The City may charge photocopying charges for requested copies of such documents. Assistive listening devices may be obtained at the meeting

PLEASE NOTE:

1. The City Council/Agency/Authority hopes to conclude its public business by 11:00 P.M. Ordinarily, no new items will be taken up after the 11:00 P.M. cutoff and any items remaining will be agendized for the next meeting. The agendas have been prepared with the hope that all items scheduled will be discussed within the time allowed.
2. Suisun City is committed to providing full access to these proceedings; individuals with special needs may call 421-7300.
3. Agendas are posted at least 72 hours in advance of regular meetings at Suisun City Hall, 701 Civic Center Boulevard, Suisun City, CA. Agendas may be posted at other Suisun City locations including the Suisun City Fire Station, 621 Pintail Drive, Suisun City, CA, and the Suisun City Senior Center, 318 Merganser Drive, Suisun City, CA.

CITY COUNCIL

Pedro "Pete" M. Sanchez, Mayor
Lori Wilson, Mayor Pro-Tem
Jane Day
Michael J. Hudson
Michael A. Segala

CITY COUNCIL MEETING

First and Third Tuesday
Every Month

AGENDA

REGULAR MEETING OF THE
SUISUN CITY COUNCIL
SUISUN CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SUISUN CITY,
AND HOUSING AUTHORITY
TUESDAY, DECEMBER 16, 2014
7:00 P.M.

SUISUN CITY COUNCIL CHAMBERS -- 701 CIVIC CENTER BOULEVARD -- SUISUN CITY, CALIFORNIA

TELECONFERENCE NOTICE
Pursuant to Government Code Section 54953, Subdivision (b), the following Council/Successor Agency/Housing Authority meeting includes teleconference participation by Councilmember Jane Day from: 301 Morgan Street, Suisun City, CA 94585.

(Next Ord. No. – 730)
(Next City Council Res. No. 2014 – 89)
Next Suisun City Council Acting as Successor Agency Res. No. SA2014 – 11)
(Next Housing Authority Res. No. HA2014 – 04)

ROLL CALL
Council / Board Members
Pledge of Allegiance
Invocation

PUBLIC COMMENT
(Requests by citizens to discuss any matter under our jurisdiction other than an item posted on this agenda per California Government Code §54954.3 allowing 3 minutes to each speaker).

REPORTS: (Informational items only.)

1. Mayor/Council -Chair/Boardmembers
2. City Manager/Executive Director/Staff
   a Update on Year-to-Date Crime Statistics and Potential Impacts of Prop 47 - (Dadisho).

CONFLICT OF INTEREST NOTIFICATION

(Any items on this agenda that might be a conflict of interest to any Councilmembers / Boardmembers should be identified at this time.)

PRESENTATIONS/APPOINTMENTS

(Presentations, Awards, Proclamations, Appointments).

3. Presentation of Proclamation to Gus Barkas, Marina Supervisor, Retiring after 17 Years of Service with the City of Suisun City, 1997 – 2014.
4. Presentation of Proclamation to Police Chief Ed Dadisho Recognizing 9 years of Service with the City of Suisun City, 2006 – 2014.

CONSENT CALENDAR

City Council

5. Council Adoption of Ordinance 729: Amending Articles I and II of Chapter 15.08, Title 15 of the Suisun City Code Relating to Floodplains and Flood Damage Prevention (Introduced and reading waived on November 18, 2014) – (Kasperson).
6. Council Adoption of Resolution No. 2014-___: Approving an Amendment to the Suisun City Flexible Benefits Plan with Employee Benefit Specialists (EBS) to Incorporate Cost-of-Living Adjustments to the Suisun City Section 125 Flexible Benefits Plan with EBS – (Anderson).

Joint City Council / Suisun City Council Acting as Successor Agency

7. Council/Agency Approval of the November 2014 Payroll Warrants in the amount of $366,808.32. Council/Agency Approval of the November 2014 Payable Warrants in the amount of $964,389.90 – (Finance).

GENERAL BUSINESS

PUBLIC HEARINGS

City Council

8. PUBLIC HEARING:
   Prohibition Against Smoking at Special Events – (Dadisho).
   a. Council Adoption of Resolution No. 2014-__: Designating Certain Open Space Areas as Parks and Recreational Areas; and
   b. Council Introduction and Waive Reading of Ordinance-___: Amending Title 12, Chapter 12.12 of the Suisun City Code Regulating the Smoking of Tobacco Products during Special Events in Parks and Recreational Areas.

ADJOURNMENT

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ITEM 3

Office of the Mayor

Suisun City, California

Proclamation

WHEREAS, Kosta "Gus" Barkas began his work with the City of Suisun City as the Marina Supervisor on September 2, 1997 and served 17 years managing and operating the City's marina and performing all "duties as assigned"; and

WHEREAS, Gus has been a member of the Suisun City management team during a period of significant development and change for the community and the City organization, and has worked cooperatively with all City staff and City Departments to enhance the residents' quality of life living in a waterfront city; and

WHEREAS, Gus has consistently achieved one of the Delta's highest occupancy rates in the marina due to high standards of maintenance, genuine concern for the wellbeing of our tenants, and throwing one of the best "Tenant Barbeques" in the region; and

WHEREAS, Gus has been a dedicated and loyal co-worker, known for his willingness to take on new and challenging tasks and provide help and assistance in any way he was able; and

WHEREAS, Gus will now retire after 41 years of resort and marina management to relax with his wife, Vivian, and his family.

NOW, THEREFORE, I, Pete Sanchez, Mayor of the City of Suisun City, do hereby congratulate Gus upon his retirement from Public Service as of December 30, 2014, and extend the best wishes of the entire organization to Gus for continued success and happiness in his retirement and future endeavors.

In witness whereof I have hereunto set my hand and caused this seal to be affixed.

Pete Sanchez, Mayor

ATTEST: _____

DATE: December 16, 2014

ITEM 4

Office of the Mayor

Suisun City, California

Proclamation

WHEREAS, Edmond "Ed" Dadisho joined the Suisun City Police Department as Police Lieutenant on February 1, 2006, and was appointed Chief of Police on March 8, 2007; and

WHEREAS, Ed's service has been marked by integrity, dedication to community outreach, and ensuring the well-being and safety of both sworn and civilian members of the Police Department; and

WHEREAS, Ed has served as a team player both inside the organization as a member of the City's executive management team, and externally as an effective partner with residents, businesses, the faith community and stakeholders within the criminal justice system; and

WHEREAS, his quest for learning led to his graduation from the West Point Leadership Program and earning a Master's Degree in Emergency Services Management from California State University, Long Beach; and

WHEREAS, Ed has more than 33 years of law enforcement experience, including 25 years with the Los Angeles Police Department prior to serving as Police Chief in Suisun City; and

WHEREAS, Ed will be returning to the Los Angeles area to continue his career as Police Chief in the City of Bell; and

WHEREAS, the City Council of the City of Suisun City desires to honor Ed Dadisho for the 8 years of service he has given to this community leading the Suisun City Police Department.

NOW, THEREFORE, I, Pete Sanchez, by virtue of the authority vested in me as Mayor of the City of Suisun City on behalf of the City Council and the residents of Suisun City, am proud to honor

Chief Ed Dadisho

for his many accomplishments, and extend our best wishes for his continued success in all future endeavors.

In witness whereof I have hereunto set my hand and caused this seal to be affixed.

Pete Sanchez, Mayor

ATTEST: _____

DATE: December 16, 2014

AGENDA TRANSMITTAL

MEETING DATE: December 16, 2014

CITY AGENDA ITEM: Adoption of Ordinance No. 729: Amending Articles I and II of Chapter 15.08, Title 15 of the Suisun City Code Regarding Floodplains and Flood Damage Prevention.

FISCAL IMPACT: There would be no fiscal impact to the General Fund or any other fund.

BACKGROUND: Part of the City has been designated by the Federal Emergency Management Agency (FEMA) as being within a Flood Zone and there is a section of the City Code that deals with construction within those areas. Satisfactory compliance with City Code and other regulations are a prerequisite for federal aid in the event of a state of emergency. Periodically the City is visited by a State representative on behalf of FEMA to make sure that the Building & Public Works Department is administrating the flood regulations properly. The City was visited by our State representative in June of this year with everything found to be OK. However, it was recommended that the City make some changes to the Flood Ordinance. This is a typical occurrence and is in response to updated Federal and State standards.

This ordinance amendment was introduced and a Public Hearing was held on November 18, 2014.

STAFF REPORT: The purpose of the proposed Ordinance update is to have sufficient regulations in place to manage building and construction in floodplains and to minimize flood damage, as well as to otherwise ensure the future health, safety, and general welfare of the citizens. This amendment does not significantly change any procedures and policies used in the past.

The changes can be summarized as follows:

- There are minor editorial changes such as changing capitalization on some words.
- The intent is to not change any policy issues. For example the freeboard is not being changed from 0.5 feet.
- There are some sections added at the request of FEMA. This is largely due to the fact that the current map now has some zones in the City that were not designated previously. Therefore the related regulations are needed.
- FEMA always has some wording that needs to be updated to the current standards.
- Some definitions have been added for clarification.
- Some reference dates have been updated.
- Our City Engineer recommended some minor changes such as the insertion of "predominantly" in 15.08.280 A.2 and the wording in the definition of floodplain administrator.

This ordinance amendment was introduced, the reading was waived, and a public hearing was held on November 18, 2014.

PREPARED BY: Amanda Dum, Management Analyst I AD

REVIEWED AND APPROVED BY: Daniel Kasperson, Building & Public Works Director

Suzanne Bragdon, City Manager S. B

STAFF RECOMMENDATION: It is recommended that the City Council adopt Ordinance No. 729: Amending Articles I and II of Chapter 15.08, Title 15 of the Suisun City Code Regarding Floodplains and Flood Damage Prevention.

ATTACHMENTS:

1. Ordinance No. 729: Amending Articles I and II of Chapter 15.08, Title 15 of the Suisun City Code Regarding Floodplains and Flood Damage Prevention.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY, CALIFORNIA, AMENDING ARTICLES I AND II OF CHAPTER 15.08, TITLE 15 OF THE SUISUN CITY CODE RELATING TO FLOODPLAINS AND FLOOD DAMAGE PREVENTION

WHEREAS, the City updates the Suisun City Code from time to time to address public health, safety and welfare issues and to reflect changes in both circumstances and the regulatory environment; and

WHEREAS, the City adopted Article I of Chapter 15.08 of Title 15 providing regulations for floodplain regulations by Ordinance No. 631, and adopted Article II of Chapter 15.08 of Title 15 providing regulations for flood damage prevention by Ordinance No. 609; and

WHEREAS, since the adoption of those ordinances, the Federal Emergency Management Agency (FEMA) and other agencies have updated standards, regulations and zone descriptions relating to floodplains and flood damage prevention, including and updated Flood Insurance Study, with Flood Insurance Rate Maps and Flood Boundary and Floodway Maps; and

WHEREAS, the City seeks to have sufficient regulations in place to manage building and construction in floodplains and to prevent flood damage, as well as to otherwise to ensure the future health, safety, and general welfare of the citizens.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUISUN CITY, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Article I of Chapter 15.08 ("Floodplains and Flood Damage Prevention") of Title 15 ("Buildings and Construction") is hereby amended in the Suisun City Code to read as follows:

ARTICLE I. FLOODPLAIN REGULATIONS

15.08.005 Statutory authorization

15.08.010 Findings and declarations.

15.08.020 Definitions.

15.08.030 Zone classifications.

15.08.040 Conflicts in zone regulations.

15.08.050 FP-1 ~~zone~~Zone—Scope.

15.08.060 FP-1 ~~zone~~Zone—Uses allowed.

15.08.070 FP-1 ~~zone~~Zone—Prohibited buildings or structures.

15.08.080 FP-1 ~~zone~~Zone—Uses requiring permit.

15.08.090 FP-1 ~~zone~~Zone—Map.

15.08.100 FP-2 ~~zone~~Zone—Scope.

15.08.110 FP-2 ~~zone~~Zone—Uses allowed.

15.08.120 FP-2 ~~zone~~Zone—Uses requiring permit.

15.08.130 FP-3 ~~zone~~Zone—Scope.

15.08.140 FP-3 ~~zone~~Zone—Uses allowed.

15.08.150 Permit—Purpose.

15.08.160 Permit—Application.

15.08.170 Permit—Issuance or denial.

15.08.180 Permit—Revocation.

15.08.190 Permit—Appeal.

15.08.200 Rules of hearing procedure.

15.08.210 Appeals.

15.08.220 Review by ~~city council~~City Council.

15.08.230 Amendments.

15.08.240 Annexation of subject property.

15.08.250 Conformance of land use permits.

15.08.260 Enforcement duty.

15.08.270 Violation—Misdemeanor.

15.08.005 Statutory authorization.

The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Additionally, Section 7

of Article XI of the California Constitution authorizes any city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. Therefore, the City of Suisun City of Solano County does hereby adopt the following floodplain management regulations.

15.08.010 Findings and declarations.

The ~~city council~~City Council finds and declares that certain resource areas and valuable properties in the ~~city~~City and surrounding lands lying adjacent to, or near, natural streams, watercourses and sloughs, or constructed water channels, are subject to erosion, inundation, flooding and sedimentation and that the public health, safety and welfare, and the property of the people of the ~~city~~City, require the establishment of land use regulations for the purpose of floodplain management and effective cooperation with the state and the United States in flood control programs.

15.08.020 Definitions.

As used in this article:

A. "Design flood" means the selected flood against which the protection is provided, or eventually will be provided, by means of flood protective or control works.

B. "Designated floodway" means the channel of a stream and that portion of the adjoining floodplain required to reasonably provide for the construction of a project for passage of the design flood including the lands necessary for construction of project levees.

C. "Fairfield Streams Project" means the U.S. Army Corps of Engineers plan, as authorized by the federal government for improvement of McCoy Creek, Laurel Creek, Ledgewood Creek, and all necessary diversions.

15.08.030 ~~Zone~~Zone classifications.

The following general floodplain regulation zone classifications are adopted:

FP-1	Primary floodplain zone
FP-2	Secondary floodplain zones
FP-3	Tertiary floodplain zones

15.08.040 Conflicts in ~~zone~~Zone regulations.

In any FP-1, FP-2 or FP-3 ~~zone~~Zone, the regulations of this article shall apply, in addition to other regulations which apply to such floodplain zones; provided, that if conflicts in these regulations occur, the regulations of this article shall govern; and provided further, that the land uses previously permitted by regulations for such floodplain zones shall be permitted in any FP-1 ~~zone~~Zone only upon the terms and conditions specified in Section 15.08.080(C).

15.08.050 FP-1 ~~zone~~Zone—Scope.

The ~~zone~~Zone classification is intended to apply to properties located within a primary floodplain which, for the purposes of this article, shall be construed to include the stream channel and the portions of the adjacent floodplain that (A) are required to efficiently carry the design floodflows of the stream and (B) are necessary for the minimum protection of the public health, welfare and safety, and protection of property and improvements from the hazards and damages resulting from floodwaters.

15.08.060 FP-1 ~~zone~~Zone—Uses allowed.

The following uses are allowed in FP-1 ~~zone~~Zones, provided that any improvements to existing structures, disturbance of natural soil, removal of natural cover or any other alteration of existing conditions that, in the opinion of the ~~city engineer~~City Engineer, may cause channel erosion and sedimentation or adversely affect the capabilities of the channel and designated floodway to carry the design flood, shall require floodplain regulation permits:

A. Flood control channels, spreading grounds and basins;

B. Recreation areas, parking lots, wildlife preserves and forest preserves, exclusive of structural improvements (other than restrooms and appurtenant facilities located and constructed in accordance with County health requirements), and which areas, lots and preserves shall be so designed as to withstand inundation by floods;

C. Agricultural uses, provided they are not conducted within stream channels or floodplain zones where their effects would constitute a flood threat to life or property;

D. Public service facilities, such as roads, bridges, diversion drains and public utilities, designed and constructed so as not to be damaged appreciably by flooding or be unduly restrictive of the flood-carrying capacity of the designated floodway;

E. Boating facilities and campgrounds operated on a seasonal basis between the months of May and October, inclusive; floating docks shall be sectional with no portion longer than forty feet, and shall be removed from the FP-1 ~~zone~~Zone at the end of each season;

F. Normal maintenance of existing channels, ditches and levees.

15.08.070 FP-1 ~~zone~~Zone—Prohibited buildings or structures.

No building or structure shall be constructed, erected, converted, altered or enlarged in the primary floodplain zone, or relocated within that zone, nor shall any other condition be allowed which would tend to cause stream-channel alteration or adversely affect the carrying capacity of a designated floodway, so as to constitute a threat to life and property.

15.08.080 FP-1 ~~zone~~Zone—Uses requiring permit.

The following uses require a floodplain regulation permit in accordance with Sections 15.08.150 through 15.08.190 in the FP-1 ~~zone~~Zone:

A. Floating docks in off season (November through April, inclusive); provided, however, that such uses will not constitute a threat to life or significantly restrict the carrying capacity of the designated floodway;

B. Excavation or filling of land areas, construction of levees, dikes or other flood structures, designed to protect property from natural flooding; provided, however, that such uses will not constitute a threat to life or significantly restrict the carrying capacity of the designated floodway.

C. Uses otherwise allowed in the zone on properties which lie within primary floodplain zones, but have been sufficiently protected with manmade dikes or levees, as determined by the ~~city engineer~~City Engineer. When such protection is afforded, the subject property may be considered tertiary floodplain in nature, as defined by Section 15.08.~~100.~~300.

15.08.090 FP-1 ~~zone~~Zone—Map.

The requirements of this article are intended to be applied to those lands shown on drawings consisting of four sheets, entitled "Fairfield Streams Group," Fairfield, California, dated February 8, 1966, as prepared by the U.S. Army Engineering District, Corps of Engineers, Sacramento, or any modification of these plans as may be mutually agreed upon by the ~~city~~City, the U.S. Army Corps of Engineers and the Reclamation Board of the state which are affected by improvements shown thereon. The areas shown on these plans as the designated floodway shall be, for the purposes of this article, the FP-1, primary floodplain zoned lands.

15.08.100 FP-2 ~~zone~~Zone—Scope.

The FP-2 ~~zone~~Zone classification is intended to be applied to properties lying within inundation areas affected by overflow and backwater, but relatively free of any current and excluding FP-1 ~~zone~~Zones. These areas require special regulations for the protection of properties and their improvements from flood hazards and damages.

15.08.110 FP-2 ~~zone~~Zone—Uses allowed.

The following uses are allowed in the FP-2 ~~zone~~Zone:

A. Uses otherwise allowed in the Z~~z~~one provided that the ground floor level of buildings, structures and uses shall be above the flood profile level as determined by the ~~city engineer~~City Engineer; and

B. Public parks and recreational developments, exclusive of structural improvements, except for restrooms and appurtenant facilities which shall be located and constructed in accordance with Solano ~~county~~County health requirements and regulations, and designed to withstand inundation due to floods.

15.08.120 FP-2 ~~zone~~Zone—Uses requiring permit.

The following uses require a permit in accord with Sections 15.08.150 through 15.08.190 in the FP-2 ~~zone~~Zone:

A. Improvements to existing buildings and structures where the floor level does not meet the minimum requirements set forth under Section 15.08.110(A);

B. Uses normally permitted in the zone when properties which lie within the secondary floodplain zone have been protected with manmade dikes or levees. When such protection is afforded, the subject property may be considered tertiary floodplain in nature, as defined by Section 15.08.~~130~~300.

C. Filling of land areas, construction of levees or dikes or other flood structures to protect property from natural flooding.

15.08.130 FP-3 ~~zone~~Zone—Scope.

The FP-3 ~~zone~~Zone classification is intended to be applied to properties which lie within a flooding area, but which have been protected by manmade dikes or levees constructed by local, state or federal agencies, by private individuals, firms, corporations, etc., provided such protective devices meet all applicable local, state or federal standards. The regulations set out in Section 15.08.140 and the general rules, as set forth above, shall apply in all FP-3 ~~zone~~Zones.

15.08.140 FP-3 ~~zone~~Zone—Uses allowed.

Uses allowed in the FP-3 ~~zone~~Zone are such uses as are otherwise allowed in the particular and various zones.

15.08.150 Permit—Purpose.

A. The purpose of the floodplain regulation permit is to provide for a detailed review and necessary arbitration of certain proposed land uses by the ~~city engineer~~City Engineer.

B. Floodplain regulation permits, revocable, conditional or valid for a term period, may be granted for any of the uses or purposes for which such permits may be required by the terms

of this article. Granting of a qualified permit does not exempt an applicant from complying with the requirements of other ordinances.

15.08.160 Permit—Application.

Application for a floodplain regulation permit shall be made in writing with the required information as prescribed by the ~~city engineer~~City Engineer. The prescribed information may include plans, detailed survey information or information required by the ~~city engineer~~City Engineer in order to make a determination that the proposal complies with the intent of this article. Application for a permit shall be directed to the engineer.

15.08.170 Permit—Issuance or denial.

Upon the receipt of an application for a floodplain regulation permit, with the required information as prescribed in Section 15.08.160, the ~~city engineer~~City Engineer shall diligently process the application and issue or deny the permit. Such permit may be issued subject to conditions as stipulated by the City ~~e~~Engineer.

15.08.180 Permit—Revocation.

In any case where a floodplain regulation permit has not been exercised within one year after the date of the granting thereof, then without further action by the ~~city engineer~~City Engineer, the permit shall be null and void.

15.08.190 Permit—Appeal.

Appeal from an action resulting from the administration of this article may be made according to the provisions of Section 15.08.210. Nonissuance of a floodplain regulation permit within a reasonable period may be the subject of an appeal.

15.08.200 Rules of hearing procedure.

The ~~city council~~City Council may establish rules of procedure governing all hearings required by this article and the laws of the state. Upon the adoption of rules of procedure by the ~~city council~~City Council, the same shall be filed in the office of the ~~city clerk~~City Clerk and copies of the rules of procedure shall be given to persons requesting them.

15.08.210 Appeals.

A. The ~~city council~~City Council shall have power to hear and decide appeals when it is alleged by the appellant that there is error in any order, requirement, permit, decision or determination made by the City ~~e~~Engineer or other official of the ~~city~~City in the administration or enforcement of this article.

B. Any person, firm, corporation, unincorporated association, public officer or agency aggrieved or affected by any determination of this article may within ten days file an appeal in writing with the ~~city council~~City Council. In the written appeal, the reasons of the appeal shall be outlined. Filing of an appeal shall stay all proceedings until determination of the appeal. Upon receipt of such appeal, the ~~city council~~City Council shall set the date for a public hearing to be held within thirty days thereafter and notify the appellant, the original applicant, if other than the appellant, and the ~~city engineer~~City Engineer.

C. The City ~~e~~Engineer shall transmit to the ~~city council~~City Council copies of all papers constituting the record of action appealed.

D. Upon hearing the appeal, the ~~city council~~City Council shall make a determination that the decision appealed from shall be affirmed, reversed or modified. Notice of the ~~city council~~City Council's determination shall be mailed forthwith by the ~~city clerk~~City Clerk to the original applicant, the person making the appeal and the City ~~e~~Engineer.

15.08.220 Review by ~~city council~~City Council.

Notwithstanding any other provision of this article, the ~~city council~~City Council, upon its own motion made within ten days from the making of any final order, requirement or determination by the ~~city engineer~~City Engineer, may review to~~,~~ affirm, reverse or modify, wholly or in part, such order, requirement or determination. Notice of such review shall be delivered or mailed to the City ~~e~~Engineer and the original applicant. The notice shall include a provision for a public hearing to be held within fifteen days from the date of the motion.

15.08.230 Amendments.

This article may be amended by the establishment, or changing, of boundaries of floodplain regulation zones or by changing any other provision hereof whenever the public necessity, convenience and the general welfare require such amendment subject to the procedure set forth in this section:

A. Initiation. An amendment may be initiated by a resolution of intention by the ~~city council~~City Council.

B. Public h~~H~~earings. The ~~city council~~City Council shall hold at least two public hearings on any proposed amendment. At least ten days prior to the first public hearings the ~~city clerk~~City Clerk shall give notice thereof by at least one publication of such public hearing in a newspaper of general circulation within the ~~city~~City, setting forth the general purpose and scope of the proposed changes in the article.

15.08.240 Annexation of subject property.

Any property which, at the time of adoption of the ordinance codified in this article, is in unincorporated territory and subject to floodplain regulations which protect rights-of- way for the Fairfield Streams Project shall, upon annexation to the ~~city~~City, be subject to all provisions and requirements of this article.

15.08.250 Conformance of land use permits.

All departments, officials and public employees of the ~~city~~City vested with the duty and authority to issue land use permits shall conform to the provisions of this article, and shall issue no such permits for land uses, buildings or purposes which are in conflict with the provisions of this article; and any such permits, if issued in conflict with the provisions of this article, shall be null and void.

15.08.260 Enforcement duty.

It is the duty of the ~~city engineer~~City Engineer to bring about enforcement of the provisions of this article pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure, the moving of material, or any other operation covered by this article.

15.08.270 Violation—Misdemeanor.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing or permitting the violation of any of the provisions of this article, or condition of a permit issued pursuant to this article, is guilty of a misdemeanor.

SECTION 2. Article II of Chapter 15.08 ("Floodplains and Flood Damage Prevention") of Title 15 ("Buildings and Construction") is hereby amended in the Suisun City Code to read as follows:

ARTICLE II. FLOOD DAMAGE PREVENTION* [1]

15.08.280 Findings of fact—Purpose.

15.08.290 Methods of reducing flood losses generally.

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15.08.280 Findings of fact—Purpose.

A. Findings of fact~~Fact~~.

1. The flood hazard areas of the ~~city~~City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and government 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.

2. These flood losses are predominantly caused by uses that are inadequately floodproofed, elevated or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss.

B. Statement of pPurpose. It is the purpose of this article to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue or relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.08.290 Methods of reducing flood losses generally.

In order to accomplish its purposes, this article includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

15.08.300 Definitions.

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

"A zone" - see "Special flood hazard area".

"Accessory structure" means a structure that is either:

1. Solely for the parking of no more than 2 cars; or

2. A small, low--cost shed for limited storage, less than 150 square feet and $1,500 in value.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Alluvial fan" means a geomorphic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this article.

"Area of shallow flooding" means a designated AO or AH ~~zone~~Zone on the Flood Insurance Rate Map (FIRM); the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of ~~S~~special ~~F~~flood ~~H~~hazard. See "special flood hazard area."

"Base flood" means a flood which has a one-percent chance of being ~~equalled~~equaled or exceeded in any given year (also called the "one hundred year flood"). Base flood is the term used throughout this article.

"Base flood elevation" (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. Any walls below the lowest floor in a building in a V Zone should give way under wind and water loads without causing collapse, displacement, or other damage to the elevated portion of the building or the supporting pilings or columns.

"Building." See "~~s~~Structure."

"Development" means any manmade 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.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations~~,~~ on June 1, 1982 ~~adopted by a community~~.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads).

"Flood, flooding or flood water" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;

2. The unusual and rapid accumulation of runoff of surface waters from any source; and/or mudslides (i.e. mudflows), see "mudslides"; and

3. The condition resulting from flood-related erosion, see "flood related erosion."

"Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.

"Flood Hazard Boundary Map (FHBM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source, see "flooding."

"Floodplain administrator" is the community official designated by title to ~~individual appointed to~~ administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and enhancing, where possible, nature resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other applications of police power which control development in flood-prone areas. The term describes ~~federal~~Federal, ~~state~~ State or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93, as may be amended.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

"Floodway encroachment lines" means the lines marking the limits of floodways on ~~f~~Federal, ~~s~~State and local floodplain maps.

"Floodway fringe" is that area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.

"Fraud ~~and~~ or victimization," as related to Section 15.08.~~480~~ 490 of this article, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the ~~community governing body~~City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Freeboard" means an additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 0.5-feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with State or community floodplain management regulations.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" means the local governing unit, i.e., Solano ~~county~~County or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship," as related to Section 15.08.480 of this article, means the exceptional hardship that would result from a failure to grant the requested variance. The ~~city council~~City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other

means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"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 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.

"Levee" means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement.

1. An unfinished or flood resistant enclosure, below the lowest floor, that is~~,~~ usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, it conforms to applicable non-elevation design requirements, including, but not limited to:

   a. The wet floodproofing standards in Section 15.08.430(C)(3).

   b. The anchoring standards in Section 15.08.410 (A).

   c. The construction materials and methods standards Section 15.08.420~~(B)~~.

   d. The standard for utilities in Section ~~5.2~~ 15.08.440.

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

"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.

"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.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 (NAVD88)~~National Geodetic Vertical Datum (NGVD) of 1929~~ or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction" means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of the ordinance~~ codified in this article~~, June 1, 1982, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted~~ by this community~~ June 1, 1982.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-Hundred-Year-Flood." See "base flood."

"Principal structure" means a structure used for the principal use of the property as distinguished from an accessory use.

"Public safety or~~and~~ nuisance," as related to Section 15.08.~~480~~ 490 of this article, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully

obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred 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.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sheet ~~F~~flow ~~A~~area. See "~~area~~ Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area having special flood, or flood-related erosion hazards and shown on FHBM or FIRM as Zone A, AO, A1-A30, AE, AR, A99, AH, or V ~~E or M~~.

"Start of construction" means and 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 one hundred eighty days of the permit date. 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 manufactured 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.

"Structure" means a walled and roofed building that is principally above ground. This includes a gas or liquid storage tank or a manufactured home.

"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 ~~to~~ exceed fifty percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition or other proposed development of a structure, the cost of which equals or exceeds fifty 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."

"Tertiary floodplain" means an area that is rarely flooded as compared to a primary floodplain, which is regularly inundated in a year of average flood, and a secondary floodplain, which is inundated less frequently in a year of average flood.

"Variance" means a grant of relief from the requirements of this article which permits construction in a manner that would otherwise be prohibited by this article.

"Violation" means the failure of a structure or other development to fully comply with the community's flood plain management regulations that are contained in this code. A structure or other development without an elevation certificate and other evidence of compliance required by the City is presumed to be in violation until such time as that documentation is provided. A structure or other development shall not be considered in violation for the purposes of this article if it was lawfully constructed prior to June 1, 1982, and has not been substantially improved after that date.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the North American Vertical Datum of 1988 (NAVD88)~~National Geodetic Vertical Datum (NGVD) of 1929~~, (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

15.08.310 Applicability.

This article shall apply to all ~~lands~~ areas of special flood hazards within the jurisdiction of the ~~city~~City.

15.08.320 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated ~~December 1, 1981~~May 4, 2009, with accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated ~~June 1, 1982 and revised to April 7, 1992~~May 4, 2009, and all subsequent amendments and/or revisions, is adopted by reference and declared to be a part of this article. The study, FIRMs, and FBFMs are on file at the Department of Public Works, 701 Civic Center Boulevard, Suisun City, California. This Flood Insurance Study and attendant mapping is the minimum area of applicability of this article and may be supplemented by studies for other areas which allow implementation of this article and which are recommended to the ~~city council~~City Council by the floodplain administrator.

15.08.330 Compliance.

A. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this article and other applicable regulations.

B. Violations of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

C. Nothing herein shall prevent the ~~city council~~City Council from taking such lawful action as is necessary to prevent or remedy any violation.

15.08.340 Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.08.350 Interpretation of provisions.

In the interpretation and application of this article, all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body;

C. Deemed neither to limit nor repeal any other powers granted under ~~state~~ State statutes.

15.08.360 Warning and disclaimer of liability.

The degree of flood protection required by this article 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 manmade or natural causes. This article 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 article shall not create liability on the part of the ~~city~~City, any officer or employee thereof, the ~~state~~ State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, from any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

15.08.365 Severability.

This article and the various parts thereof are hereby declared to be severable. Should any section of this article be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the article as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

15.08.370 Development permits.

A development permit shall be obtained before construction or development begins within any area of special flood hazards established in_Section 15.08.320 of this article. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: ~~plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:~~

~~A.~~

~~Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures in zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures; or~~

~~B.~~

~~Proposed elevation in relation to mean sea level to which any structure will be floodproofed, if required in Section 15.08.430C; and~~

~~C.~~

~~All appropriate certifications listed in Section 15.08.390D of this article; and~~

~~D.~~

~~Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.~~

A. Plans in duplicate, drawn to scale, showing:

1. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;

2. Proposed locations of water supply, sanitary sewer, and other utilities;

3. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;

4. Location of the regulatory floodway when applicable;

5. Base flood elevation information as specified in Section 15.08.320 or Section 15.08.390.C;

6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and

7. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 15.08.430.B of this ordinance and detailed in FEMA Technical Bulletin TB 3-93, as may be amended.

B. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 15.08.430.B.

C. For a crawl-space foundation, location and total net area of foundation openings as required in Section 15.08.430.C.3 of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93, as may be amended.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

E. All appropriate certifications listed in Section 15.08.390~~.2~~.E of this ordinance.

15.08.380 Designation of the floodplain administrator.

The ~~p~~Public ~~w~~Works ~~d~~Director is the community official appointed as the floodplain administrator to administer, implement, and enforce this article by granting or denying development permits in accordance with its provisions.

15.08.390 Duties and responsibilities of the floodplain administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to:

A. Permit ~~Review~~review.

1. Review all development permits to determine that the permit requirements of this article have been satisfied;

2. All other required state and federal permits have been obtained;

3. The site is reasonably safe from flooding;

4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined, but a floodway has not been designated. For purposes of this article, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

5. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

B. Development of substantial improvement and substantial damage procedures.

1. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," as may be updated, develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."

2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

~~B~~C. Review and ~~Use~~use of ~~Other~~other ~~Base~~base ~~Flood~~flood ~~Data~~data. When base flood elevation data has not been provided in accordance with Section 15.08.320 of this article, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 15.08.400 through 15.08.470 of this article. Any such information shall be submitted to the ~~city council~~City Council for adoption.

~~C~~D. Notification of o~~O~~ther ~~A~~agencies. ~~In alteration or relocation of watercourse:~~

1. In alteration or relocation of a watercourse, ~~N~~notify adjacent communities and the California Department of Water Resources prior to such alteration or relocation of a watercourse, ~~and~~ submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency,~~;~~ and assure that the flood-carrying capacity within the altered or relocated portion of said watercourse is maintained

~~2. Assure that the flood-carrying capacity within the altered or relocated portion of said watercourse is maintained~~.

2. Base Flood Elevation changes due to physical alterations:

   a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).

   b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

3. Changes in municipal boundaries: Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

~~D~~E. Documentation of f~~F~~loodplain d~~D~~evelopment. Obtain and maintain for public inspection and mak~~de~~ available as needed the following:

1. The certification required in Section 15.08.430 A ~~and~~or~~&~~ 15.08.460 B (lowest floor elevations);

2. The certification required in Section 15.08.430 B (elevation or floodproofing of nonresidential structures);

3. The certification required in Section 15.08.430 C (wet flood proofing standard);

4. The certification of elevation required in Section 15.08.430 C1 or C2 or 15.08.450 B (~~subdivision~~ standards for subdivisions);

5. The certification required by Section 15.08.470 A (floodway encroachment)~~.~~;

6. Information required by Section 15.08.475 F (coastal construction standards); and

7. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

~~E~~F. Map ~~Determinations~~determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 15.08.~~201~~210 and 15.08.220~~490~~ of this article, except that for the purposes of such appeal "City Engineer" shall be deemed to refer to "floodplain administrator" in those Sections.

~~F~~G. Remedial ~~Action~~action. Take action to remedy violations of this article as specified in Section 15.08.330.

H. Biennial report. Complete and submit Biennial Report to FEMA.

I. Planning. Assure ~~community~~City's General Plan is consistent with floodplain management objectives herein.

15.08.395 Appeals.

The ~~city council~~City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.

15.08.400 Standards of construction.

In all areas of special flood hazards the standards set out in Sections 15.08.410 through 15.08.470 of this article are required.

15.08.410 Anchoring.

A. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. All manufactured homes shall meet the anchoring standards of Section 15.08.460 of this article.

15.08.420 Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. All new construction and substantial improvements shall be constructed 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 flooding.

D. Require within ~~zone~~Zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

15.08.430 Elevation and floodproofing.

(See Section 15.08.300 definitions for "~~new~~ New construction," "S~~s~~ubstantial damage" and "~~substantial~~ Substantial improvement").

A. Residential construction, new or substantial improvement, shall have the lowest floor, including basement:

1. In an AO ~~zone~~Zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM plus 0.5-ft of freeboard, or elevated at least two feet above the highest adjacent grade plus 0.5-ft of freeboard if no depth number is specified;

2. In an A ~~zone~~Zone, elevated to or above the base flood elevation plus 0.5-ft of freeboard, as determined by this community;

3. In all other zones, elevated to or above the base flood elevation plus 0.5-ft of freeboard. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.

4. The requirement for freeboard may be appealed to the floodplain administrator in writing, on a case by case basis. Justification, including any alternative means of flood protection, should be included with the written appeal. The freeboard requirement may be waived by the floodplain administrator however; all other requirements will still apply.

B. Nonresidential construction shall either be elevated in conformance with subsection A of this section or together with attendant utility and sanitary facilities:

1. Be floodproofed so that below the elevation specified under this section the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certification shall be provided to the floodplain administrator.

C. All new construction and substantial improvements, with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

1. Be certified by a registered professional engineer or architect; or

2. Be certified to comply with a local flood-proofing standard approved by the Federal Insurance Administration, Federal Emergency Management Agency; or

3. Have a minimum of two openings on different sides of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

D. Manufactured homes shall also meet the standards in Section 15.08.460 of this article.

15.08.440 Standards for utilities.

A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters.

B. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

15.08.450 Standards for subdivisions.

A. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:

1. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).

2. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.

3. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:

   a. Lowest floor elevation.

   b. Pad elevation.

   c. Lowest adjacent grade.

~~A. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.~~

~~B. All subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood elevation, the final first floor and pad elevation shall be certified by a registered professional engineer or surveyor and provided to the floodplain administrator.~~

~~C~~B. All subdivision proposals shall be consistent with the need to minimize flood damage.

~~D~~C. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

~~E~~D. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

15.08.460 Standards for manufactured homes.

A. All manufactured homes that are placed or substantially improved~~, within ZoneZones A1-30, AH, and AE and V on the community's Flood Insurance Rate Map,~~ on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:

~~1. Outside of a manufactured home park or subdivision;~~

~~2. In a new manufactured home park or subdivision;~~

~~3. In an expansion to an existing manufactured home park or subdivision; or~~

~~4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred substantial damage as the result of a flood shall~~

1. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.

2. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 15.08.475.

B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within ~~zone~~Zones A1-30, AH, AE, V1-30, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of subsection A of this section will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the (1) lowest floor of the manufactured home is at or above the base flood elevation, or (2) manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Elevations must be certified by a registered professional engineer or surveyor, or verified by the community building inspector, and shall be provided to the floodplain administrator.

15.08.465 Standards for recreational vehicles.

A. All recreational vehicles places on sites within ~~zone~~Zones A1-30, AH, ~~and~~ AE, V1-30 and VE on the community's Flood Insurance Rate Map will either:

1. Be on the site for fewer than one hundred eighty consecutive days;

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

~~C.~~3. Meet the permit requirements of Sections 15.08.370 through 15.08.395 of this article and the elevation and anchoring requirements for manufactured homes in Section 15.08.460.

B. Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Subsection A of this Section and Section 15.08.475.

15.08.470 Floodways.

Located within areas of special flood hazard established in Section 15.08.320 of this article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge.

B. If subsection A of this section is satisfied, all new construction, substantial improvements, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Sections 15.08.400 through 15.08.470.

C. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City.

D. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City.

15.08.475 Coastal High Hazard Areas.

Within coastal high hazard areas, Zones V, V1-30, and VE, as established under 15.08.320, the following standards shall apply:

A. All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

B. All new construction and other development shall be located on the landward side of the reach of mean high tide.

C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in 15.08.300 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

D. Fill shall not be used for structural support of buildings.

E. Man made alteration of sand dunes which would increase potential flood damage is prohibited.

F. The floodplain administrator shall obtain and maintain the following records:

1. Certification by a registered engineer or architect that a proposed structure complies with 15.08.430; and

2. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

15.08.480 Variance procedure.

A. The ~~city council~~City Council shall hear and decide requests for variances from the requirements of this article.

B. Nature of Variances. The variance criteria set forth in this section of the article are based on the general principal zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this article would create an exceptional hardship to the applicant or the surrounding property owners. The characteristic must be unique to the property and shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the ~~city council~~City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this article are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than variance are more appropriate.

C. In passing upon requests for variances, the ~~city council~~City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article~~:~~ and

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger of life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents and the effect of such damage on the existing individual owner and future owners of the property;

4. The importance of the services provided by the proposed facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

9. The safety of access to the property in time of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

D. Any applicant to whom a variance is granted shall be given written notice over the signature of a ~~city~~City official that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one hundred dollars of insurance coverage; and

2. Such construction below the base flood level increases risks to life and property;

3. The floodplain administrator shall record a copy of the written notice in the office of the Solano County recorder in a manner such that it appears in the chain of title of the affected parcel of land.

E. The floodplain administrator shall maintain the records of all variance actions, including justifications for their issuance, and report any variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

15.08.490 Conditions for variances.

A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 15.08.370 through 15.08.~~470~~ 475 of this article have been fully considered. As lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures (as defined in Section 15.08.300 of this article) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure, and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this article. For example, in the case of variances to an elevation requirement, this means the ~~city council~~City Council need not grant permission for the applicant to build at grade, or event to whatever elevation the applicant proposes, but only to that elevation which the ~~city council~~City Council believes will both provide relief and preserve the integrity of this article.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship (as defined in Section 15.08.300 of this article) to the applicant; and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 15.08.300; see "public safety or nuisance"), cause fraud or victimization (as defined in Section 15.08.300) of the public or conflict with existing local laws or ordinances.

F. Variances may be issued for new construction, substantial improvements and for other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsection A through F of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety and does not create a public nuisance.

G. Upon consideration of the factors of Section 15.08.480 and the purposes of this article, the ~~city council~~City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason, held to be unconstitutional, or otherwise invalid, such decision shall not affect the validity of the remaining sections of this Ordinance. The Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Ordinance, and shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption, and within fifteen (15) days after its final passage, this ordinance shall be posted in at least three (3) public places within the City and published in a county newspaper that is circulated in the City, or as otherwise authorized by Government Code §36933(c)(1) allowing for publication of a description of the ordinance in a county newspaper that is circulated in the City with a copy of the ordinance available in the City Clerk's Office.

PASSED, APPROVED, AND ADOPTED as an ORDINANCE at a regular meeting of the City Council of the City of Suisun City, California, on this ____ day of _____, 2014.

_____
PETE SANCHEZ
MAYOR

ATTEST:

_____
LINDA HOBSON
CITY CLERK

STATE OF CALIFORNIA)

01107.0006/228081.1

COUNTY OF SOLANO) ss.
CITY OF SUISUN CITY)

I, LINDA HOBSON, City Clerk of the City of Suisun City, California, do hereby certify that the foregoing Ordinance No. _____ was adopted by the City Council of the City of Suisun City at a regular meeting held on the ____ day of _____ 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
LINDA HOBSON, CITY CLERK

01107.0006/228081.1

AGENDA TRANSMITTAL

MEETING DATE: December 16, 2014

CITY AGENDA ITEM: Council Adoption of Resolution No. 2014-__: Approving an Amendment to the Suisun City Flexible Benefits Plan with Employee Benefit Specialists (EBS) to Incorporate Cost-of-Living Adjustments to the Suisun City Section 125 Flexible Benefits Plan with EBS.

FISCAL IMPACT: There would be no fiscal impact associated with the adoption of the proposed Resolution. All costs for coverage under the Flexible Benefits Plan are paid by the employees on a pre-tax basis for coverage related to themselves and their dependents.

BACKGROUND: In 2000, the City adopted a Flexible Benefits Plan, which allowed employees to pay for certain medical and childcare services on a pre-tax basis (pursuant to IRS Code Section 125).

STAFF REPORT: The IRS recently announced cost-of-living adjustments (COLAs) for 2015 for Healthcare Flexible Spending Accounts (FSA). The annual dollar limit on employee contributions to Healthcare FSA is increased to $2,550, up $50 from the amount for 2014. The attached resolution and plan amendment would allow employees to increase their annual salary reduction contribution (on a pre-tax basis) to the maximum amount allowable by the IRS. This amendment to the City's Flexible Benefits Plan would also allow for future automatic cost-of-living increases from year-to-year pursuant to Section 125(i)(2) of the Internal Revenue Code.

RECOMMENDATION: It is recommended that the City Council adopt Resolution No. 2014-___: Approving an Amendment to the Suisun City Flexible Benefits Plan with Employee Benefit Specialists (EBS) to Incorporate Cost-of-Living Adjustments to the Suisun City Section 125 Flexible Benefits Plan with EBS.

ATTACHMENTS:

1. Resolution No. 2014-___: Approving an Amendment to the Suisun City Flexible Benefits Plan with Employee Benefit Specialists (EBS) to Incorporate Cost-of-Living Adjustments to the Suisun City Section 125 Flexible Benefits Plan with EBS.

PREPARED BY: Ronald C. Anderson, Jr., Assistant City Manager

REVIEWED/APPROVED BY: Suzanne Bragdon, City Manager

RESOLUTION NO. 2014 - ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY APPROVING AN AMENDMENT TO THE SUISUN CITY FLEXIBLE BENEFITS PLAN WITH EMPLOYEE BENEFIT SPECIALISTS (EBS) TO INCORPORATE COST-OF-LIVING ADJUSTMENTS TO THE SUISUN CITY SECTION 125 FLEXIBLE BENEFITS PLAN WITH EBS

WHEREAS, the City of Suisun City (the "City") contracts with Employee Benefits Specialist for the administration of a Section 125 Flexible Benefits Plan (the "Plan") for the benefit of eligible employees; and

WHEREAS, the City is desirous of amending the Plan to bring it into compliance with the provisions of federal law and regulations.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Suisun City that the Plan be amended in the form attached hereto, which amendment is hereby adopted and approved; and

BE IT FURTHER RESOLVED, that the City Manager of Suisun City is hereby authorized and directed to execute said amendment on behalf of the City.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City held on Tuesday the 16th day of December 2014 by the following vote:

AYES:	Councilmembers:	_____
NOES:	Councilmembers:	_____
ABSENT:	Councilmembers:	_____
ABSTAIN:	Councilmembers:	_____

WITNESS my hand and the seal of said City this 16th day of December 2014.

_____
Linda Hobson, CMC
City Clerk

SUISUN CITY
FLEXIBLE BENEFITS PLAN DOCUMENT
AMENDMENT NUMBER 1

Effective January 1, 2015, the City of Suisun City hereby amends the City of Suisun City Flexible Benefits Plan (the Plan) in compliance with the Health Care Reform Law (PPACA) that imposes a limit on annual salary reduction contributions to health FSAs. This Amendment shall be effective for plan years beginning on or after January 1, 2015, and shall apply notwithstanding any other statements in the Plan, the summary plan description (SPD), or any other documents.

The Plan is hereby amended by replacing the "Maximum Dollar Limits" Provision for Health FSA with the following language:

> Maximum Annual Salary Reduction Contributions Limit. The maximum annual salary reduction contributions that a Participant may elect to receive under this Plan in the form of reimbursements for Medical Care Expenses incurred in any Period of Coverage under the General-Purpose Health FSA shall be $2,550. The maximum limit may increase from year-to-year pursuant to Section 125(i)(2) of the Internal Revenue Code.

IN WITNESS WHEREOF, and as conclusive evidence of the adoption of the foregoing amendment to the City of Suisun City Flexible Benefits Plan has caused this has caused this Amendment to be executed in its name, and on its behalf, on this 16th day of December 2014.

SUISUN CITY:

Signature: _____

Print Name: _____

Title/Position: _____

AGENDA TRANSMITTAL

MEETING DATE: December 16, 2014

CITY AGENDA ITEM: Prohibition Against Smoking at Special Events:

a. Council Adoption of Resolution No. 2014-__: Designating Certain Open Space Areas as Parks and Recreational Areas; and

b. Council Introduction and Waive Reading of Ordinance-___: Amending Title 12, Chapter 12.12 of the Suisun City Code Regulating the Smoking of Tobacco Products during Special Events in Parks and Recreational Areas.

FISCAL IMPACT: There would be no fiscal impacts to the General Fund to amend the ordinance adding sections 12.12.005, 12.12.080, and 12.12.085. There may be a slight increase in revenue to the General Fund in issuing citations for the infractions.

BACKGROUND: On July 15, 2014, staff brought to Council a Discussion and Direction Local Land Use item regarding smoking of hookah and e-cigarettes and the dangers of their use in public places. The Council directed staff to come back with a discussion and direction item on regulating the use of tobacco in public places such as parks and the downtown plaza during events sponsored by the City and that of the Suisun City Historic Waterfront Business Improvement District.

On October 7, 2014, staff brought the item back to the Council for discussion and direction. The City Council directed staff to present the Council with an ordinance that will be unique to Suisun City in restricting smoking at special events open to the general public in the Marina Plaza area and within the event boundaries only at any City Park.

Staff has researched current municipal codes and zoning and has crafted an ordinance we believe to be unique to Suisun City. This ordinance would restrict smoking in designated areas and it would provide event participants a smoke-free environment, yet it would smokers the opportunity to smoke in areas where smoking is permitted outside of the boundaries of the special event.

STAFF REPORT: As we have indicated in the past Council presentations, outdoor smoking creates a public nuisance, both because of the health hazard of second-hand smoke as a "Toxic Air Contaminant" which is defined as an air pollutant by the California Air Resources Board (CARB) and California Health and Safety Code section 39650 et seq., which may cause or contribute to an increase in deaths or in serious illness, and the pervasiveness of cigarette butts, which constitute the most common form of plastic litter in our communities.

Staff also has stated in the past presentations, that the City currently follows State laws regulating smoking and tobacco products. However, State laws do not regulate outdoor smoking in public locations such as parks and other outdoor venues.

In researching this ordinance, staff found that our current Municipal Code did not define parks and recreational areas, nor did it define special events. Additionally, our current Municipal Code designated parks in the zoning code as any open space of four (4) acres or more. This staff report will discuss the zoning issue and the ordinance in two separate parts.

PREPARED BY: Edmond Dadisho, Police Chief
REVIEWED/APPROVED BY: Suzanne Bragdon, City Manager

Designation of Parks and Recreational Areas

Municipal Code Section 18.38.010 defines a park as the "P" district designed to preserve for recreational use areas well suited to recreational purposes. "P" districts shall be created in areas of four acres or larger. With that definition, only the following parks would officially be recognized as such:

- Samuel W. Goepp Park
- Carl E. Hall Park
- Heritage Park
- Montebello Vista Park
- Lawler Ranch Park
- Patriot Park
- Independence Park
- Petersen Ranch Linier Park

This zoning definition leaves out several other parks and recreational areas and would limit the City's ability to regulate smoking during special events open to the public in these areas. These parks and recreational areas are:

- Mike Day Playground
- Municipal Boat Launch
- Lawler Falls Park
- McCoy Creek Park
- Irving H. Lambrecht Sports Complex
- Sheldon Plaza
- Old Town Waterfront Plaza
- City Hall Point
- Lotz & Main
- Merganser & Sunset Plaza Public Promenade
- Downtown Courtyard

To ensure that the City has the ability to regulate smoking in these locations, staff has prepared a resolution for the City Council declaring all of these locations as designated City parks and recreational areas. The resolution may be amended by the Council in any subsequent resolution to add, or delete from the list.

Regulation of Smoking during Special Events Open to the Public in City Parks

Staff reviewed the Suisun City Code to determine the best location to address the Council's interest. It was determined that Title 12, Section 12.12 – Parks and Recreational Facilities would be the most appropriate. The proposed ordinance would prohibit smoking during Special Events open to the public in Parks and Recreational areas including the Suisun City Marina area. After enactment off this ordinance, should the Council be desirous of changing which facilities are designated as non-smoking during Special Events open to the public, such changes could be accomplished via resolution.

RECOMMENDATION: It is recommended that the City Council:

1. Adopt Resolution No. 2014-__: Designating Certain Open Space Areas as Parks and Recreational Areas; and
2. Open the Public Hearing; and
3. Take any testimony; and
4. Close the Public Hearing; and
5. Introduce and Waive Reading of Ordinance-___: Amending Title 12, Chapter 12.12 of the Suisun City Code Regulating the Smoking of Tobacco Products during Special Events in Parks and Recreational Areas and the City Marina Area.

ATTACHMENTS:

1. Resolution No. 2014-__: Designating Certain Open Space Areas as Parks and Recreational Areas.
2. Ordinance ___: Amending Title 12, Chapter 12.12 of the Suisun City Code Regulating the Smoking of Tobacco Products during Special Events in Parks and Recreational Areas and the City Marina Area.
3. Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant as Approved by the Scientific Review Panel.
4. Health and Safety Section 39650.

RESOLUTION NO. 2014-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY DESIGNATING CERTAIN OPEN SPACES AS PARKS AND RECREATIONAL AREAS

WHEREAS, Suisun City has a desire to regulate the use and activities in open spaces frequented by the public as parks and recreational areas; and

WHEREAS, the current Suisun City Code zoning, Section 18.38.010, designates parks in the "P" zone which defines parks as four acres or larger; and

WHEREAS, this designation only encompasses seven (7) parks in the City as four acres or more; and

WHEREAS, the designation excludes eight (8) other parks, because they are fewer than four (4) acres; and

WHEREAS, it is the City's interest to simplify the Suisun City Code by identifying all the parks and recreational areas, regardless of their size.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby designates the following Parks and Recreational Areas as such and will be subject to certain use restrictions and regulations as may be established from time to time by the City Council:

A. MIKE DAY PLAYGROUND – Located on Civic Center Blvd., this 3.0-acre playground area is surrounded by green space, picnic tables and is bordered by the waterfront.

B. SAMUEL W. GOEPP PARK – Located next to Dan O. Root II School on Pintail and Harrier Drives, this 4.3-acre park consists of a pathway, grass area, children's play area and basketball court.

C. CARL E. HALL PARK – Located on Pintail Drive next to the KROC Center, this park includes 10 acres of grass and a tot lot.

D. HERITAGE PARK – Located on Village Drive between Pintail and Merganser Drives, this 10-acre park (including the Joseph Nelson Community Center) offers a lighted ball field, picnic tables, playground, basketball, jogging trail and restrooms.

E. MONTEBELLO VISTA PARK – Located on Montebello Drive at Capistrano Drive, this 5.1-acre park includes a youth ball field, playground, picnic tables and large grass area.

F. MUNICIPAL BOAT LAUNCH – Located at the end of Kellogg Street in Old Town Suisun City includes a boat launch facility, pay for boat trailer parking, restrooms, fish cleaning station and fishing pier. – 0.8 acres of grass, 5.1 acres total.

G. LAWLER FALLS PARK – Located at Mayfield Circle and Hammond Lane in Lawler Ranch, this park features a three-level pond and waterfall, walking paths, picnic tables and grass area on 3.0 acres.

H. MCCOY CREEK PARK – Located at the west end of Anderson Drive, this one-acre neighborhood park contains a playground, barbecue pit, sand volleyball court and open grass area.

I. **IRVING H. LAMBRECHT SPORTS COMPLEX** – Located on Petersen Road, this complex contains four Little League baseball fields and four lighted softball fields. The City Corporation yard is also inside the complex – 79.2 acres.

J. **SHELDON PLAZA** – Located on Driftwood Drive across from the Hampton Inn & Suites next to the Old Town Waterfront Plaza. This is a 1.0-acre open turf plaza setting.

K. **OLD TOWN WATERFRONT PLAZA** – Located on Main Street, the waterfront plaza area is grass, gazebo, stage, and waterfront walkway on 1.1 acres.

L. **CITY HALL POINT** – Grass area located behind City Hall on Civic Center Blvd – Open turf area attached to waterfront promenade with art sculpture on 1.0 acre.

M. **LAWLER RANCH PARK** – Located on Lawler Ranch Pkwy this 10-acre park includes two playgrounds, picnic tables, small turf area and walking paths.

N. **PATRIOT PARK** – Located at Vandenberg Circle and Charleston Street, this 4.3-acre park includes large turf area, two playgrounds, picnic tables, two half basketball courts, kick-back board and pathways.

O. **INDEPENDENCE PARK** – Located on Charleston Street this 4.6-acre park includes a playground and large turf area.

P. **LOTZ & MAIN** – A 0.1 acre open turf.

Q. **MERGANSER & SUNSET PLAZA** - 0.2 acres.

R. **PETERSEN RANCH LINEAR PARK** – 6.2 acres eastern boundary of Peterson Ranch development, walkway, lighting, benches and turf.

S. **PUPLIC PROMENADE** - The public Promenade is the improved sidewalk that borders and encompasses the marina water's edge within the defined marina land area.

T. **DOWNTOWN COURTYARD** - The Downtown Courtyard is the open area south of Solano Avenue, west of Kellogg Avenue and east of Main Street and north of the fireplace.

BE IT FURTHER RESOLVED that the City Council hereby designates these Parks and Recreational areas to be subject to the provisions of Suisun City Code Section 12.12.080 – Smoking Tobacco during Special Events.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Suisun City duly held on Tuesday, the 16th day of December 2014, by the following vote:

AYES:	Councilmembers:	_____
NOES:	Councilmembers:	_____
ABSENT:	Councilmembers:	_____
ABSTAIN:	Councilmembers:	_____

WITNESS my hand and the seal of said City this 16th day of December 2014.

_____
Donna Pock, CMC
Deputy City Clerk

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY, CALIFORNIA, AMENDING TITLE 12, CHAPTER 12.12 OF THE SUISUN CITY CODE REGULATING THE SMOKING OF TOBACCO PRODUCTS DURING SPECIAL EVENTS IN PARKS AND RECREATIONAL AREAS

WHEREAS, the City is concerned about second-hand smoke during special events in the Marina area and other parks and recreational facilities; and

WHEREAS, the California Air Resources Board has identified second-hand smoke as a Toxic Air Contaminant as described by California Health and Safety Code 39650 et seq.; and

WHEREAS, designating areas free of second-hand smoke is desired for all special events that will still allow persons who want to smoke tobacco to do so outside the special event boundaries.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUISUN CITY, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1.

Title 12, Chapter 12.12 of the Suisun City Code relating to the Use of Parks and Recreational Facilities is hereby amended as follows:

Sections

12.12.005 – Definitions, added

12.12.080 – Smoking Tobacco during Special Events, added

12.12.005 - Definitions.

The following words and phrases, as used in this Chapter, are defined as follows:

A. "Suisun City Marina" shall mean the land area as defined in Chapter 21, Section 21.10.010 of the Suisun City Code including all real property from the foot of the shoreline protection to the exterior of the landscape areas bordered generally by west curb of Civic Center Boulevard to the east, the south easement of State Route 12 to the north, the west sidewalk of Main Street, the south curb of Morgan Street and the west curb of Kellogg Street, to the west. This area includes all parks, wetlands, city hall, the public promenade, parking lots, the rail station and plaza and all other marina-related property controlled by the City. Diagram A found in Section 21.10.010 depicts the Suisun City Marina.

B. "Park" is defined as any open space designated as such by resolution of the City Council.

C. "Recreational Area" is defined as any open space designated as such by resolution of the City Council.

D. "Special Event" is defined as a planned occasion or activity (such as a social gathering) sponsored by the City or any other public or private entity or organization, which is open to the public.

E. "Toxic Air Contaminant" is defined as an air pollutant, identified in regulation by the California Air Resources Board (CARB) and California Health and Safety Code section 39650 et seq., which may cause or contribute to an increase in deaths or in serious illness, or which may pose a present or potential hazard to human health.

12.12.080 – Smoking Tobacco During Special Events.

Except as authorized by City permit or license, no person shall smoke any tobacco product emitting second-hand smoke, which is a Toxic Air Contaminant as defined by the California Air Resources Board, in the Suisun City Marina area during a Special Event open to the public, or at any City Park or Recreational Area during a Special Event open to the public within the specific event boundary. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this ordinance of the City is guilty of an infraction. Any person convicted of an infraction for violation of an ordinance of the City is punishable by:

A. Fine not exceeding fifty dollars for a first violation.
B. Fine not exceeding one hundred dollars for a second violation of the same ordinance within one year.
C. Fine not exceeding two hundred fifty dollars for each additional violation of the same ordinance within one year.

SECTION 2. EFFECTIVE DATE.
In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage.

SECTION 3.
If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause, and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4.
This ordinance shall be posted in at least three (3) public places within the City or published in a county newspaper that is circulated in the City within fifteen (15) days after its passage, there being no newspaper of general circulation printed and published within the City.

PASSED, APPROVED, AND ADOPTED as an Ordinance at a regular meeting of the City Council of the City of Suisun City, California, on this 16th day of December 2014.

_____
Pete Sanchez
Mayor

CERTIFICATION

I, Linda Hobson, City Clerk of the City of Suisun City, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council on December16, 2014 and passed, approved, and adopted by the City Council of the City of Suisun City at a regular meeting held on the 16th day of December 2014 by the following vote:

AYES: Councilmembers:_____
NOES: Councilmembers:_____
ABSENT: Councilmembers:_____
ABSTAIN: Councilmembers:_____

WITNESS my hand and the seal of said City this 16th day of December 2014.

_____
Linda Hobson, CMC
City Clerk

State of California
AIR RESOURCES BOARD

APPENDIX III

PROPOSED IDENTIFICATION OF ENVIRONMENTAL TOBACCO SMOKE AS A TOXIC AIR CONTAMINANT

EXECUTIVE SUMMARY

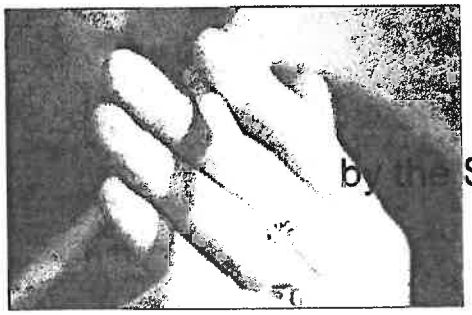
As Approved by the Scientific Review Panel
On June 24, 2005

The SRP approved Executive Summary is a supporting technical document which is incorporated by reference in the Initial Statement of Reasons (Staff Report)

State of California

Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant

Executive Summary



As Approved
by the Scientific Review Panel
on June 24, 2005

California Environmental Protection Agency

Air Resources Board

Part A- Exposure Assessment

Office of Environmental Health Hazard Assessment

Part B- Health Effects

EXECUTIVE SUMMARY

For the "Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant"

California Environmental Protection Agency
Air Resources Board
Office of Environmental Health Hazard Assessment

Introduction

In 1983, the State of California established a program to identify the health effects of toxic air contaminants (TACs) and to reduce exposure to these contaminants to protect the public health (Assembly Bill 1807: Health and Safety Code sections 39650-39674). The program includes a two-step process to address the potential health effects from TACs. The first step involves the evaluation of a substance, by the Air Resources Board (ARB) and the Office of Environmental Health Hazard Assessment (OEHHA), to determine if it is toxic and to estimate public exposure. This step is the risk assessment (or identification) phase. Under state law, the ARB is authorized to identify a substance as a TAC if it determines the substance is "an air pollutant which may cause or contribute to an increase in mortality, in serious illness, or which may pose a present or potential hazard to human health (Health and Safety Code section 39655)."

The second step, determining the need for and appropriate degree of control measures, occurs only if the ARB identifies the substance as a toxic air contaminant. This step is the risk management (or control) phase of the process (Health and Safety Code sections 39665 and 39666). This report does not address the need for control measures to reduce ETS exposure, nor contain any recommendations in that regard.

The ARB and the OEHHA are evaluating environmental tobacco smoke (ETS) as a candidate toxic air contaminant under the State's air toxics identification program. This report presents the information upon which this assessment is based.

What is Contained in This Report?

This report, prepared by the staff of the Air Resources Board (ARB) and the Office of Environmental Health Hazard Assessment (OEHHA), presents an evaluation of exposures to environmental tobacco smoke and the potential health effects associated with these exposures.

Part A of the report, prepared by the staff of the ARB, addresses the exposures to ETS in California. Some of the information in this document is based on data presented in the OEHHA's 1997 report: "Health Effects of Exposure to Environmental Tobacco Smoke." Specifically, Chapter 2 (Exposure Measurement and Prevalence) of the

OEHHA report was updated to include ETS exposure information developed subsequent to the data presented in the report.

Part B of the report, prepared by the staff of the OEHHA, evaluates the potential health impacts from exposures to ETS. In this document, information from their 1997 report, which was later published by the U.S. National Cancer Institute in 1999, has been updated to include more recent literature. OEHHA's evaluation includes numerous published papers on ETS-related health effects since their initial 1997 ETS review.

Part C of the report, prepared by both ARB and OEHHA staff, addresses the comments received on the first public version of the report. The Part C document contains the staff responses to comments and the comment letters.

The Part A and B of this report will serve as the basis for the identification of ETS as a toxic air contaminant (TAC) under the authority of California's TAC Program (Assembly Bill 1807: Health and Safety Code sections 39660-39662).

How Does the ARB Identify a Substance as a TAC?

With input from the public, industry, and the scientific community, the ARB and the OEHHA gather all of the relevant scientific information on a substance. Under the requirements of law (Health and Safety Code sections 39660-39662), the ARB and OEHHA must answer the following questions:

- Is the substance used in California?
- Who is exposed to the substance?
- How many people are exposed?
- How much is emitted into the air?
- How long does the substance stay in the air?
- How much of a substance can be measured in the air?
- Does exposure to the substance cause increased health impacts in children?
- Does the substance pose a potential health risk to Californians?

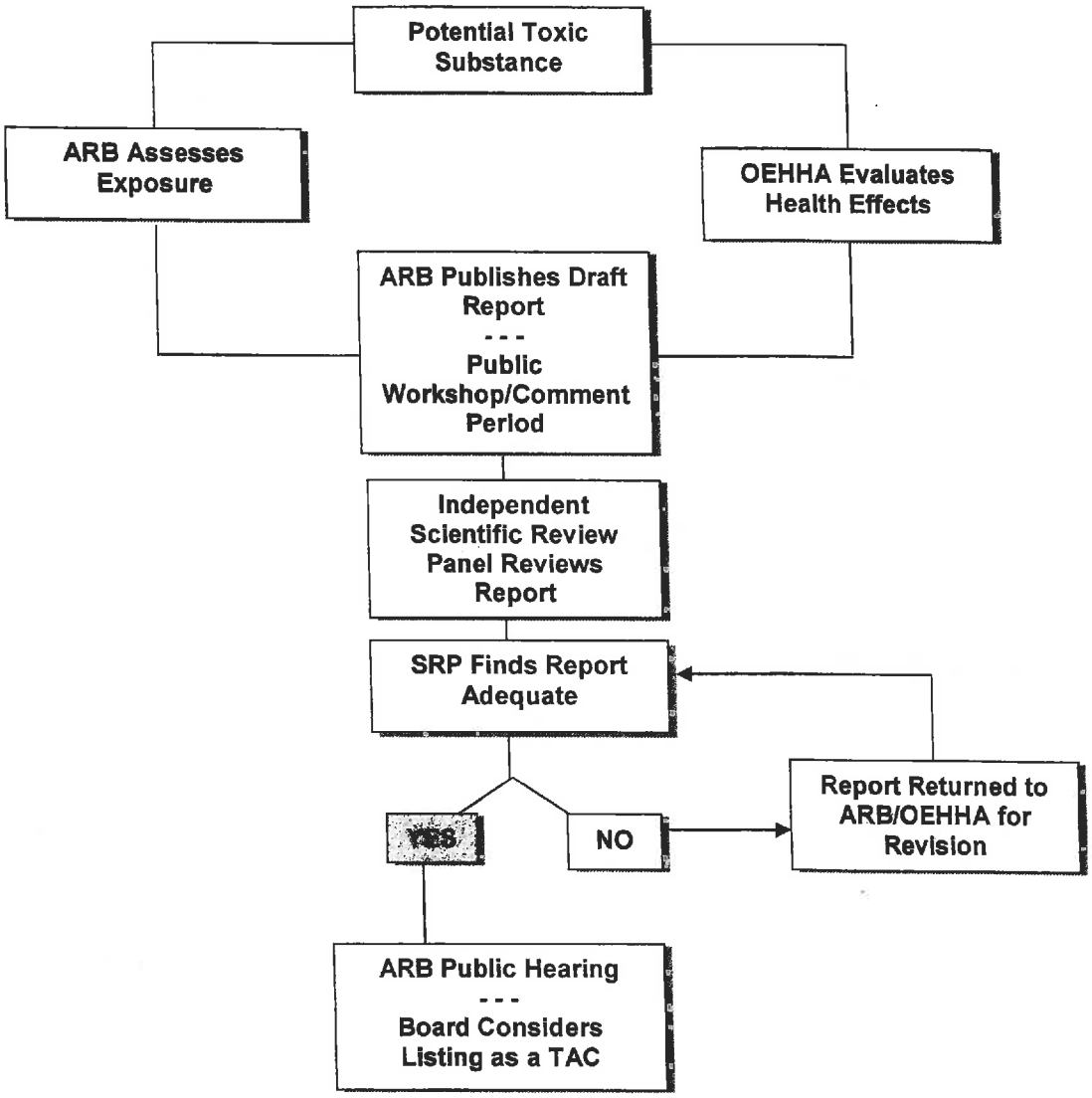
The ARB staff determines the public's potential exposure to the substance while the OEHHA must determine if exposure to the substance poses a potential health risk. Both agencies then prepare a draft report which serves as the basis for identifying a substance.

Once the draft report is released, the public review process begins. The public review is a critical step in identifying a substance. After the release of the report, a workshop is held to discuss the report during a formal comment period. After receiving public comments, both verbal and written, we carefully review all comments, incorporate new information, and revise the report where appropriate.

After the comment period and public workshop, the report is then submitted to the Scientific Review Panel (SRP) on Toxic Air Contaminants. The SRP is an independent group of scientists, who review the report for its scientific accuracy. If the SRP

determines that the report is not based on sound scientific information, it is sent back to the staff for revisions. If the SRP approves the revised report, the SRP prepares its "findings" which are submitted, along with the staff report, to the ARB for consideration at a public hearing. The Board then decides whether to identify a substance as a TAC (see illustration below). If the substance is identified as a TAC, it is listed in title 17 of the California Code of Regulations under section 93000.

The Identification Process



What Happens When a Substance is Identified as a TAC by the Air Resources Board?

After a substance is identified as a TAC, the Health and Safety Code provides for the development of a needs analysis to determine if any regulatory action is warranted. Specifically, the law requires the ARB to prepare a report which assesses the need and appropriate degree of control of a TAC, in consultation with the local districts, affected industry, and the public.

Where is Environmental Tobacco Smoke in the Toxic Air Contaminant Process?

Environmental Tobacco Smoke has undergone a thorough and extensive evaluation since it entered the identification program in June 2001. In December 2003, the draft report, which included the Executive Summary, Part A (exposure assessment), and Part B (health assessment), was released to the public for a three month comment period. In March 2004, a public workshop was held to discuss the report. On November 30, 2004, the SRP held a meeting to discuss the report and the comments received on the draft report (Part C - responses to public comments). The meeting was continued on January 6, 2005 and on March 14, 2005. On June 24, 2005, the SRP held a fourth meeting to discuss and approve the revised draft report. The SRP findings recommend that the ARB take the necessary steps to list ETS as a TAC. Furthermore, the SRP recommends to OEHHA that ETS, once listed, be added to the list of toxic air contaminants that may disproportionately impact children (pursuant to Health and Safety Code section 39669.5(c)). As indicated by the preceding graphic, the next step in the toxic air contaminant process is to notice a public hearing of the Air Resources Board.

What is Environmental Tobacco Smoke?

Environmental Tobacco Smoke is a complex mixture of thousands of gases and fine particles emitted by the burning of tobacco products and from smoke exhaled by the smoker. Other minor contributors are from the smoke that escapes while the smoker inhales and some vapor-phase related compounds that diffuse from the tobacco product. The composition will vary depending on the heat of combustion, the tobacco content, additives present, and the type of filter material used.

Many of the substances found in ETS have known adverse health effects. The table below lists some of these compounds.

Some Substances in Environmental Tobacco Smoke with Known Adverse Health Effects

1,3-butadiene	Chromium VI
2-Naphthylamine	Ethyl benzene
4-Aminobiphenyl	Formaldehyde
4-nitrobiphenyl	Hydrazine
Acetaldehyde	Methyl chloride
Acrolein	N-Nitrosonornicotine
Aniline	Nickel
Arsenic (inorganic)	Nicotine
Benzene	NNK
Benz[a]anthracene	Phenol
Benzo[a]pyrene	Styrene
Cadmium	Toluene

The size of ETS particles range from 0.01 to about 1 μm. Freshly produced ETS undergoes complex atmospheric changes such as coagulation, evaporation, dilution and condensation. However, ETS fine particles essentially remain below 1 μm in size.

What are the Total ETS Emissions in California?

ETS emissions were characterized using the most widely measured components of ETS: nicotine, respirable particulate matter (RSP), and carbon monoxide (CO). Total emissions, as a result of combustion of tobacco products, were estimated using data from the California Tobacco Surveys, emission rates from the scientific literature, and cigarette sales data from the State Board of Equalization.

2002 California Statewide ETS Emissions (tons/year)

	Cigarettes	Cigars	Total
Nicotine	36	4	40
RSP	335	30	365
CO	1475	432	1907

How much ETS is Emitted Outdoors in California?

The amount of ETS emitted into the outdoor environment depends in large part on the smoking public's behavior. Outdoor ETS emissions include direct emissions from outdoor smoking, plus ETS emissions generated indoors which eventually ventilate outside. Apportioning ETS emissions as either outdoor or indoor emissions is difficult to determine due to limited information. However, existing information shows that most smoking in California occurs outdoors. This is demonstrated by the fact that most workplaces (including bars and restaurants) in California, through the enactment of Assembly Bill 13 (AB13) in 1998, are now smoke-free. In addition, data from the 2002 California Adult Tobacco Survey (CATS), shows that over 80% of all California homes

with children are now smokefree and that about 50% of California smokers report that they do not smoke in their own homes. For ETS generated indoors, building ventilation studies show that 50 – 80 percent of ETS (including ETS constituents) is exchanged with outdoor air over a given time period. From all of the available information, the ARB staff estimates that at least 80% of total ETS emissions (including those directly emitted outdoors and emissions ventilated from indoors) are emitted to the outdoor environment.

What is the Prevalence of Smokers in California?

The California Tobacco Survey (CTS), developed by the California Department of Health Services (CDHS), indicates that during the past decade, smoking prevalence among adults (over age 18) and adolescents (12 to 17 years) has gradually decreased.

Starting in 2001, CDHS began measuring adolescent prevalence through their California Student Tobacco Survey (CSTS). The CSTS was incorporated by CDHS since it samples school populations and provides better statistical accuracy. The most recent CTS and CSTS surveys show that both the adult (2002 data) and adolescent (2001 data) smoking prevalence is about 16%. The CSTS data also shows that the range of adolescent smokers varies from 10% in 9th grade to 23% in 12th grade.

How does California Compare to the Rest of the Nation?

Since the passage of Proposition 99 in 1988, the annual adult per capita cigarette consumption has declined by over 60% in California. Adult smoking prevalence in California has dropped at a faster rate relative to the rest of the nation.

Comparison of Reduction in Cigarette Consumption: California versus U.S.

Fiscal Year	19[illegible]7/1988 ([illegible] adult)	2001/2002 (packs per adult)	% Decline
California	126.6 packs	47.7 packs	62.3
United States	154.8 packs	99.2 packs	35.9

What is the Prevalence of ETS Exposure in California?

Smoking behavior and other factors that change smoking patterns such as smoking regulations, affect present and future exposure patterns. Information from several smoking behavior related surveys indicate that many of California's adults, adolescents, and children are exposed to ETS during some time of the day.

According to studies from the late 1980s and the early 1990s, on a given day, 56% of adults (over age 18), 64% of adolescents (12-17 years), and 38% of children (0-11 years), reported exposure to ETS during their daily activity. Actual incidence is assumed to be lower today due to decreases in workplace smoking and in public locations such as restaurants, bars, and gaming clubs due to California smoking

restrictions. However, up to 20% of adolescents may still be exposed to ETS in their homes.

How do we Measure ETS Exposure in the Environment?

Exposure to ETS is difficult to characterize because it is a complex mixture of substances and the difficulty in determining an appropriate marker that is representative of ETS as a whole. Due to its complex nature, it is necessary to select a surrogate measure of exposure that is representative of ETS as a whole.

Several components of ETS have been studied as surrogates or markers for ETS. Nicotine has been most widely studied as a potential marker because its source is primarily tobacco smoke. Other ETS markers that have been studied include: solanesol, 3-ethenylpyridine (3-EP), carbon monoxide, iso- and anteisoalkanes (C_{29}-C_{34}), polycyclic aromatic hydrocarbons, fluorescing particulate matter, respirable suspended particles, and ultraviolet particulate matter.

Are there Studies that have Determined Outdoor Air Concentrations of ETS in California?

Yes. There are studies that have either measured or modeled outdoor air concentrations of ETS constituents. One study estimated concentrations of fine smoke particles in the Los Angeles air using tobacco-specific iso- and anteisoalkanes. Using the measurements from these marker compounds, the annual average ambient fine (less than 2.5 microns) ETS particles in the Los Angeles air was estimated to range from 0.28 to 0.36 microgram of ETS particle per cubic meter of air ($\mu g/m^3$). The levels were based on annual measurement data from 1982. Another study used personal badge monitors to measure personal nicotine levels. This study reported a 7-day median nicotine concentration in the outdoor environment of 0.025 $\mu g/m^3$, based on those study participants who reported no indoor exposure.

One study used a chemical mass balance receptor model based on organic compounds to estimate source contributions to fine particle mass concentrations in the Los Angeles air. The modeled annual average concentration for the Los Angeles air was estimated to be 0.21 $\mu g/m^3$ fine ETS particulate matter in 1982.

Has the ARB Measured Outdoor Concentrations of ETS in California?

Yes. To obtain data on current levels of ETS in ambient air where people spend part of their day, the ARB monitored nicotine concentrations at several outdoor smoking areas in California. The study gathered two 8-hour samples and six 1-hour samples per site tested. Depending on the site location and number of smokers present, the results showed a range of nicotine concentrations from 0.013-3.1 $\mu g/m^3$ for the 8-hour samples and 0.016-4.6 $\mu g/m^3$ for the 1-hour measurements. Overall, the results indicate that concentrations of nicotine corresponded mainly to the number of smokers in the smoking areas, the size of the smoking area and meteorological conditions.

What are the Outdoor Air Levels of ETS that Most Californians Breathe?

The scenario-based approach used to characterize the range of the public's exposure to ETS in this report showed that Californians who neither smoke nor associate with many smokers will have very limited ETS exposure. In this case, individuals will likely experience the majority of their lifetime ETS exposure from background levels of ETS which result from occasional or steady state near-source emissions. Since most Californians live and work in urban areas, the ARB staff has estimated an outdoor annual average ambient ETS particle concentration for the Los Angeles air for 2003. The staff used the two Los Angeles studies discussed above as a basis for this estimate. The staff applied an adjustment factor to the 1982 fine particle estimates presented in the two Los Angeles studies to reflect reductions in cigarette sales and cigarette emission rates that have occurred since 1982. The results show that estimated annual average fine ETS particle concentrations in Los Angeles in 2003 likely decreased to between 0.06 to 0.10 μg/m^3. The table below summarizes the outdoor air concentration data for ETS nicotine and fine particles from all outdoor estimates.

Estimates of ETS Outdoor Ambient Concentrations

Method/Reference	Data Year	Concentrations (μg/m^3)	
		Fine $PM_{2.5}$	Nicotine
Fine PM – Source Apportionment Schauer *et al.*, 1996	1982	0.21 μg/m^3 annual average	*0.026 μg/m^3 annual average
Iso- and anteisoalkanes – measurement Rogge *et al.*, 1994	1982	0.28 – 0.36 μg/m^3 annual average	*0.035 – 0.044 μg/m^3 annual average
Nicotine – measurement Eisner *et al.*, 2001	2001	*0.20 μg/m^3 7-day median conc.	0.025 μg/m^3 7-day median conc.
Nicotine – measurement ARB, 2003	2003	*0.11 – 25 μg/m^3 8-hour range *0.073 – 0.97 μg/m^3 8-hour background	0.013 – 3.1 μg/m^3 8-hour range 0.009 – 0.12 μg/m^3 8-hour background
Los Angeles background - Estimate ARB, 2004	2003	0.06 – 0.10 μg/m^3 annual average	*0.008 - 0.013 μg/m^3 annual average

* Calculated value using: PM2.5/Nicotine concentration = 8

Are There Estimates of Indoor Air Exposure to ETS?

Yes. A number of studies have estimated ETS levels in different indoor environments using nicotine and respirable particulate matter (RSP), and other markers for ETS exposure. Current typical indoor concentrations of nicotine in California are estimated to range from near zero to about 6.0 μg/m^3 in the home environment. Because of California's workplace smoking ban, California office buildings will generally have very

low smoking concentrations. However, certain workplaces, such as the small (but documented) percentage of free-standing bars that still do not comply with California's workplace smoking ban, would likely have higher levels of ETS. Based on measurements from several studies, average nicotine levels could be as high as 76.0 $\mu g/m^3$ for bars and bingo parlors where smoking still occurs.

RSP concentrations in certain entertainment venues (such as casinos and bingo parlors) are estimated to range from less than 15 $\mu g/m^3$, where smoking is prohibited, up to 350 $\mu g/m^3$, where smoking is allowed. In the home environment, short-term peak RSP levels have been found up to 300 $\mu g/m^3$, where just one cigarette was smoked. Likewise, in-vehicle ETS RSP concentrations are estimated to range from about 90 $\mu g/m^3$ to well over 1,000 $\mu g/m^3$, depending on ventilation and position of windows.

How do we Estimate the California Public's Exposure to ETS?

An individual's exposure depends on the air concentration of a pollutant in a given environment, and the time they spend in that environment. An individual's total daily exposure is the sum of all the exposures they experience across their 24-hour day, including both indoor and outdoor environments.

A scenario-based approach was used to characterize the range of the public's exposure to ETS during a 24-hour period. The scenario-based exposure method uses the results from ARB's ETS air monitoring study, available indoor ETS concentration data, and scenario-based activity patterns to estimate exposures under different situations. The results show a wide range of possible population subgroup daily exposures. For individuals living in non-smoking homes and having only brief encounters with ETS, their average 24-hour exposure concentrations are low, and are estimated to be less than 0.01 $\mu g/m^3$. For those living in homes with indoor smokers and experiencing in-vehicle exposures, the average exposure concentration to which they are exposed to over 24-hours can easily range up to 7.4 $\mu g/m^3$, and up to 19.4 $\mu g/m^3$ in a realistic, "maximally exposed" situation. Such exposures are especially of concern for developing young children because they are likely to recur daily and may result in serious health consequences.

This approach differs from previous TAC exposure assessments, which were based on California population-weighted exposures to outdoor average ambient concentrations. That approach was appropriate for TACs emitted from area-wide or region-wide sources such as motor vehicles and industrial plants. However, cigars and cigarettes, the primary sources of ETS, are smaller sources that emit pollutants near people. As a result, the highest exposures to ETS are very localized. Therefore, because exposures are localized and ETS is not monitored at ambient monitoring stations, we believe the scenario-based approach provides better and more informative estimates of public exposure to ETS.

The primary and often the only exposure for individuals who do not spend time near smokers is outdoors in locations over which the individual typically has little control. For nonsmokers whose work or other activities bring them into contact with outdoor

smokers regularly, 100% of their exposure can be attributable to proximity to outdoor smoking.

Are There Other Methods for Estimating Human Exposure to ETS?

One of the most accurate methods for estimating ETS exposure in a person is through the use of biological markers. Biological markers of ETS exposure are metabolites of tobacco smoke ingredients found in physiological fluids or attached to DNA or proteins. The ability to quantify exposure objectively is an important step in linking exposure to relative risk of adverse outcomes.

Cotinine, a metabolite of nicotine, is the biological marker of choice in most epidemiological studies. Physiological fluid levels correlate very well with ETS exposure documented both by questionnaire and by personal exposure monitoring. Cotinine levels differ between smokers and ETS-exposed nonsmokers by 2 to 3 orders of magnitude. From an epidemiological perspective, this difference is useful to determine when people misrepresent their smoking status. Cotinine assays are sensitive enough that individuals without ETS exposure can be distinguished from those persons with low exposure.

The nicotine concentration in hair is emerging as another viable biological marker of ETS exposure. In some instances, hair nicotine has been shown to better correlate with exposure than cotinine, especially where exposure is highly episodic.

What is the Persistence of ETS in the Atmosphere?

Gaseous chemicals that are present in ETS can react in the atmosphere with other pollutants and sunlight to form new chemical species. The ETS particles and particle-associated chemicals (those with low vapor pressure that deposit or chemically bind onto the particles) are subject to wet and dry deposition and atmospheric transformation of species adsorbed to the particles.

Nicotine, the principal alkaloid in tobacco, is most commonly found in the gas phase in the environment. In the ambient air, nicotine may react with hydroxyl radicals to have a half-life of approximately one day.

What are the Health Effects Associated with Exposure to ETS?

ETS exposure is causally associated with a number of health effects, including effects on infants and children. ETS has a number of serious impacts on children's health including sudden infant death syndrome (SIDS), induction and exacerbation of asthma, increased respiratory tract infections, increased middle ear infections, and causes developmental toxicity resulting in low birth weight, and impaired lung function growth, predisposition to SIDS (to the extent that this is a developmental effect), and other developmental impacts.

Listed in Table ES.1 are the developmental, respiratory, carcinogenic and cardiovascular effects for which there is sufficient evidence of a causal relationship, including fatal outcomes such as SIDS, heart disease mortality and lung cancer death, as well as serious chronic diseases, such as childhood asthma. There are a number of effects for which evidence is suggestive of a causal association, but further research is needed for confirmation, including spontaneous abortion, decreased lung function growth, cervical cancer, and chronic respiratory symptoms in adults. Finally, it is not possible to judge on the basis of the current evidence the impact of ETS on a number of endpoints, including congenital malformations, adverse male reproductive effects, and rare childhood cancers.

Many Californians are exposed to ETS, and the number of people adversely affected may be correspondingly large. Table ES.2 presents morbidity and mortality estimates for health effects causally associated with ETS exposure. For lung cancer, where certain California-specific data are unavailable, estimates are derived from figures published for the U.S. population, assuming that the number affected in California would be 12% of the total. The estimates for cardiovascular disease, middle ear infection, asthma episodes, SIDS, pre-term delivery, and low birth weight were derived using information on prevalence of ETS exposure in California and the U.S.

Relative risk estimates associated with some of these endpoints are small, but because the diseases are common and ETS exposure is frequent and widespread, the overall impact can be quite large. The relative risk is a measure of the relation between exposure to a substance and the incidence of a disease. A relative risk of 1.0 indicates no relationship. For ETS, a relative risk estimate of 1.2-1.7 for heart disease mortality in nonsmokers is supported by the collective evidence; this corresponds to approximately 1,700-5,500 deaths annually in California. The relative risk estimate of 1.38 associated with low birth weight implies that ETS may impact fetal growth of 1,600 newborns in California. It is estimated that at least 31,000 children in California experience one or more ETS-related asthma episodes (new onset or exacerbation) each year. Large impacts are also associated with relative risks for respiratory effects in children such as middle ear infection (RR ≈ 1.62) (about 50,000 children annually), and lower respiratory infection in young children (RR ≈ 1.5 to 2) (18,000 to 36,000 children annually). ETS exposure is implicated in 21 SIDS deaths per year in California (RR ≈ 3.5). About 400 to 1,100 lung cancer deaths in California are ETS-related. For nasal sinus cancers, observed relative risks have ranged from 1.7 to 3.0. This is as high as or higher than the relative risks observed for lung cancer. Finally, for breast cancer, when evaluating younger, primarily premenopausal women at diagnosis, a pooled risk estimate of 1.68 is derived in the meta-analysis, and when restricted to the studies with better exposure assessment, an estimate of 2.20 is obtained (see Table 1). These estimates of association could represent a significant number of cases as this is a relatively common cancer in women. Adding the mid-point of the ranges for lung cancer deaths and heart disease deaths, and including the SIDS point estimate, one can attribute about 50,000 deaths per year in the U.S. and 4,000 deaths per year in California from ETS-associated disease. This does not include the estimates for other ETS-associated cancer deaths.

TABLE ES.1
HEALTH EFFECTS ASSOCIATED WITH EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE

Effects Causally Associated with ETS Exposure

Developmental Effects
Fetal growth: Low birth weight and decrease in birth weight
Sudden Infant Death Syndrome (SIDS)
Pre-term Delivery

Respiratory Effects
Acute lower respiratory tract infections in children
(*e.g.*, bronchitis and pneumonia)
Asthma induction and exacerbation in children and adults
Chronic respiratory symptoms in children
Eye and nasal irritation in adults
Middle ear infections in children

Carcinogenic Effects
Lung cancer
Nasal sinus cancer
Breast cancer in younger, primarily premenopausal women

Cardiovascular Effects
Heart disease mortality
Acute and chronic coronary heart disease morbidity
Altered vascular properties

Effects with Suggestive Evidence of a Causal Association with ETS Exposure

Reproductive and Developmental Effects
Spontaneous abortion, Intrauterine Growth Retardation
Adverse impact on cognition and behavior
Allergic sensitization
Decreased pulmonary function growth
Adverse effects on fertility or fecundability

Cardiovascular and Hematological Effects
Elevated risk of stroke in adults

Respiratory Effects
Exacerbation of cystic fibrosis
Chronic respiratory symptoms in adults

Carcinogenic Effects
Cervical cancer
Brain cancer and lymphomas in children
Nasopharyngeal cancer
All cancers – adult and child

Table ES.2 Attributable Risks Associated with ETS

Outcome	Conclusion OEHHA 1997 Annual Excess # in CA	Conclusion OEHHA 1997 Annual Excess # in US	Conclusion Update Annual Excess # in CA	Conclusion Update Annual Excess # in US
Pregnancy:				
Low birth weight	1,200-2,200	9,700-18,600	1,600 [1]	24,500 [2]
Pre-term delivery			4,700 [1]	71,900 [2]
Asthma (in children):				
# Episodes [3]			31,000 [4]	202,300 [5]
# New cases	960-3120	8,000-26,000	N/A	N/A
#Exacerbations	48,000-120,000	400,000-1,000,000		
Lower respiratory illness	18,000-36,000	150,000-300,000	N/A	N/A
Otitis media visits	78,600-188,700	700,000-1,600,000	50,200	790,000 [6]
SIDS	120	1,900-2,700	21 [7]	430 [8]
Cardiac death (Ischemic heart disease death)	4,200-7,440	35,000-62,000	3,600 (range: 1,700-5,500) [9]	46,000 (range: 22,700-69,600) [10]
Lung cancer death	360	3000	400 [11]	3400
Breast cancer – diagnosis in younger, primarily premenopausal women			All studies: OR 1.68 (95% CI 1.31-2.15) [12] Best studies: OR 2.20 (95% CI 1.69-2.87) Approximate 68-120% increased risk	

1 Based on California Dept Health Services (CDHS, 2000a), Table 2-6, Number and percent of live births with selected medical characteristics by race/ethnic group of mother, California 2000, and Gilpin et al. (2001).

2 Based on CDC (2002b) National Vital Statistics Report. Vol 51(2) 2002. Births: Final data for 2001, and on adult females reporting exposure to ETS in NHANES III for 1995 (Pirkle et al., 1996).

3 The data to distinguish number of new cases from number of exacerbations were not available for the updated calculations; thus, OEHHA considered that these estimates were best described as number of episodes.

4 Based on number of asthma attacks or episodes in previous 12 months for 0-17 year olds. Calculated from California Health Interview Survey for 2001.

5 Based on number of asthma attacks or episodes in previous 12 months for 0-14 year olds in Mannino et al. (2002b) CDC-MMWR 51(SS01)).

6 Based on Freid et al. (1998) National Center for Health Statistics Series 13 No. 137. Ambulatory Health Care Visits by Children: Principal Diagnosis and Place of Visit for yrs 1993-1995.

7 Based on California Dept Health Services (CDHS, 2000b), Table 4-10 for yr 2000 Leading causes of infant death by race/ethnic group of child, California 2000.

8 Based on CDC (2002a) National Center for Health Statistics (2002). www.cdc.gov/nchs/fastats/infort.htm for yr 2000.

9 Based on California Dept Health Services (CDHS, 2000c), Table 5-7, Deaths, death rates, and age-adjusted death rates for leading causes by sex, California, 1999- 2000.

10 Based on Anderson and Arias (2003). National Vital Statistics Report. Vol 51(9) Table 2 for yr 2000 Ischemic heart diseases including AMI.

11 Assuming California exposure and death rates are similar to national rates and California population is 12% of national population.

12 OEHHA is unable at this time to calculate an attributable risk as it is not possible to account accurately for the portion attributable to other known risk factors. The OR for all studies is based on our meta-analysis of all studies with risk estimates for younger primarily premenopausal women. The OR for best studies is based on the OR for studies which evaluated younger primarily premenopausal women and which did a better job of ascertaining exposure – see Part B Section 7.4.1.3.2 and Table 7.4.1l.

N/A = data not available.

Citations for documents cited in above table appear in Part B Chapter 1 references.

What Perinatal Health Effects have been Observed?

ETS causes developmental toxicity. ETS exposure adversely affects fetal growth, with elevated risks of low birth weight or "small for gestational age" observed in numerous epidemiological studies. The primary effect observed, reduction in mean birth weight, is small in magnitude. But if the distribution of birth weight is shifted lower with ETS exposure, as it appears to be with active smoking, infants who are already compromised may be pushed into even higher risk categories. Low birth weight is associated with many well-recognized problems for infants, and is strongly associated with perinatal mortality. ETS is also associated with pre-term delivery. Premature babies are also at higher risk for a number of health problems.

The impact of ETS on perinatal manifestations of development other than fetal growth and pre-term delivery is less clear. The few studies examining the association between ETS and perinatal death are relatively non-informative. Studies on spontaneous abortion are suggestive of a role for ETS, but further work is needed. Although epidemiological studies suggest an association of severe congenital malformations with paternal smoking, the findings are complicated by the use of paternal smoking status as a surrogate for ETS exposure, since a direct effect of active smoking on sperm cannot be ruled out. In general, the defects implicated differed across the studies, with the most consistent association seen for neural tube defects.

What Postnatal Developmental Effects of ETS Exposure have been Observed?

Numerous studies have demonstrated an increased risk of sudden infant death syndrome, or "SIDS", in infants of mothers who smoke. Until recently, it has not been possible to separate the effects of postnatal ETS exposure from those of prenatal exposure to maternal active smoking. Recent epidemiological studies now have demonstrated that postnatal ETS exposure is an independent risk factor for SIDS, and many of these studies demonstrated a dose-response gradient.

Although definitive conclusions regarding causality cannot yet be made on the basis of available epidemiological studies of cognition and behavior, there is suggestive evidence that ETS exposure may pose a hazard for neuropsychological development. With respect to physical development, while small but consistent effects of active maternal smoking during pregnancy have been observed on height growth, there is no evidence that postnatal ETS exposure has a significant impact on growth in otherwise healthy children. As discussed in greater detail below, developmental effects of ETS exposure on the respiratory system include childhood asthma induction and possibly adverse effects on lung growth and development.

What are the Effects of ETS Exposure on Female and Male Reproductive Systems?

Active smoking by women has been found to be associated with decreased fertility in a number of studies, and active tobacco smoking appears to be anti-estrogenic. The epidemiological data on ETS exposure, though not conclusive, are suggestive of adverse effects on fecundability and fertility, and possibly on menstrual cycle disorders, although not many studies are available on this endpoint. Although associations have been seen epidemiologically between active smoking and sperm parameters, conclusions cannot be made regarding ETS exposure and male reproduction, as there is very limited information available on this topic.

What are the Effects on the Respiratory System?

ETS exposure produces a variety of acute effects involving the upper and lower respiratory tract. In children, ETS exposure can exacerbate asthma, and increases the risk of lower respiratory tract illness, and acute and chronic middle ear infection. Eye and nasal irritation are the most commonly reported symptoms among adult nonsmokers exposed to ETS. Odor annoyance has been demonstrated in several studies.

Regarding chronic health effects, there is compelling evidence that ETS is a risk factor for induction of new cases of asthma (in children and adolescents/adults) as well as for increasing the severity of disease among children and adults with established asthma. In addition, chronic respiratory symptoms in children, such as cough, phlegm, and wheezing, are associated with parental smoking. While the results from all studies are not wholly consistent, there is evidence that childhood exposure to ETS affects lung growth and development, as measured by small, but statistically significant decrements in pulmonary function tests; associated reductions may persist into adulthood. The effect of chronic ETS exposure on pulmonary function in otherwise healthy adults is likely to be small, and unlikely by itself to result in clinically significant chronic disease. However, in combination with other insults (*e.g.*, prior smoking history, exposure to occupational irritants or ambient air pollutants), ETS exposure could contribute to chronic respiratory impairment in adults. In addition, regular ETS exposure in adults has been reported to increase the risk of occurrence of a variety of lower respiratory symptoms.

Children are especially sensitive to the respiratory effects of ETS exposure. Children with cystic fibrosis are likely to be more sensitive than healthy individuals. Several studies of patients with cystic fibrosis, a disease characterized by recurrent and chronic pulmonary infections, suggest that ETS can exacerbate the condition. Several studies have shown an increased risk of atopy (a predisposition to develop IgE antibodies against common allergens, which can then be manifested as a variety of allergic conditions) in children of smoking mothers, though the evidence regarding this issue is mixed.

What Carcinogenic Effects does ETS have?

The role of ETS in the etiology of cancers in nonsmokers was explored, because active smoking has been recognized as an established cause of cancers in a number of organs including: lung, larynx, oral cavity, naso-, oro-,and hypo-pharynx, nasal cavity and sinuses, esophagus, kidney, urinary bladder and ureter, uterine cervix, pancreas, liver, bone marrow (myeloid leukemia), and stomach (IARC, 2004). Also, ETS contains a number of constituents that have been identified as carcinogens in animals and humans.

Reviews published in the 1986 *Report of the Surgeon General* (U.S. DHHS, 1986), by the National Research Council (NRC, 1986g), and by the United States Environmental Protection Agency (U.S. EPA) (1992i), as well as the original OEHHA report (Cal/EPA, 1997) concluded that ETS exposure causes lung cancer. Since the previous OEHHA review (Cal/EPA, 1997), numerous epidemiological studies and several meta-analyses have examined the association between passive smoking and lung cancer. The population-based studies were designed to and have successfully addressed many of the weaknesses for which the previous studies on ETS and lung cancer have been criticized. Results from these studies are compatible with the causal association between ETS exposure and lung cancer already reported by the U.S. EPA, Surgeon General, and National Research Council. The studies examining the effect of ETS exposure on nasal sinus cancers consistently (though not uniformly) show statistically significant associations, presenting strong evidence that ETS exposure increases the risk of nasal sinus cancers in non-smoking adults. Finally, studies suggest an association between ETS exposure and elevated risks of nasopharyngeal cancers.

Many population-based case-control studies (as well as three cohort studies), controlling for several important reproductive, dietary and other potential confounding factors, have identified elevated breast cancer risks for residential and occupational exposure overall or in individual strata. Higher risks were noted in several studies for breast cancer diagnosed in women under age fifty (primarily premenopausal), or with long duration or high intensity exposure. The toxicological data on carcinogenicity of tobacco smoke constituents strongly support that the risk associated with ETS exposure is highly plausible. Overall, the weight of evidence (including toxicology of ETS constituents, epidemiological studies, and breast biology) is consistent with a causal association between ETS exposure and breast cancer in younger, primarily premenopausal women. In contrast to the findings in younger women, in studies which reported statistics for women diagnosed with breast cancer after menopause, risk estimates cluster around a null association (see Figure 7.4.4). There are, however, elevated risk estimates in some studies for postmenopausal women either overall or in specific strata. The evidence to date for older/postmenopausal women is, therefore, considered inconclusive. Further research indicating a positive association would be necessary prior to altering this finding.

The epidemiological and biochemical evidence suggest that exposure to ETS may increase the risk of cervical cancer. Positive associations were observed in three of four case-control studies and a statistically nonsignificant positive association was observed in the only cohort study conducted. A new population-based cross-sectional

study found statistically significant elevated risks for cervical cancer. Findings of DNA adducts in the cervical epithelium as well as nicotine and cotinine in the cervical mucus of ETS-exposed nonsmokers supports biological plausibility.

In adults, the epidemiological evidence for an association between ETS exposure and risk of brain tumor remains weak and inadequately researched. More recent studies have focused on the potential association between ETS and childhood brain tumors. In children, recent studies or others not previously reviewed by OEHHA, provide no substantial evidence for an association between maternal smoking and childhood brain tumors, with risk estimates generally near the null. Several studies indicated a slightly stronger association with paternal smoking and brain cancer, although the association is still somewhat weak. Overall, the generally positive, but inconsistent, associations reported between paternal smoking and childhood brain tumors, in combination with biological plausibility, provide suggestive evidence of an association between ETS and brain cancer in children. Similarly, suggestive evidence of an association between exposure to ETS and childhood cancer is noted for lymphomas and acute lymphocytic leukemia (children of paternal smokers). These observed associations may reflect an effect of pre-conceptional paternal smoking on sperm, rather than an effect of ETS exposure.

For other cancer sites in adults, there has been limited ETS-related epidemiological research in general. The evidence to date regarding the relationship between ETS exposure and the risk of occurrence of cancer in sites other than lung, nasal cavity, breast, and possibly brain and lymphoma and leukemia, is inconclusive. A review of the available literature clearly indicates the need for more research. For example, although compounds established as important in the etiology of stomach cancer are present in tobacco smoke, only a single well designed population based study has been performed for this site. In biochemical studies of nonsmokers, higher levels of hemoglobin adducts of the established bladder carcinogen, 4-aminobiphenyl, have been found in those exposed to ETS. However, no significant increases in bladder cancer were seen in the two case-control studies and one cohort study conducted to date, although both studies were limited in their ability to detect an effect.

The epidemiological data are insufficient to assess potential associations between ETS exposure and rare childhood cancers. Some studies found small increased risks in children in relation to parental smoking for neuroblastoma, Wilm's tumor, bone and soft-tissue sarcomas, but not for germ cell tumors. Studies to date on these rare cancers have been limited in their power to detect effects. The impact of ETS exposure on childhood cancer would benefit from far greater attention than it has received to date.

What are the Effects on the Cardiovascular System?

The epidemiological data, from prospective and case-control studies conducted in diverse populations, in males and females and in western and eastern countries, support a conclusion that there is a causal association between ETS exposure from spousal smoking and coronary heart disease (CHD) mortality in nonsmokers. To the extent possible, estimates of risk were determined with adjustment for demographic factors, and often for other factors related to heart disease, such as blood pressure,

serum cholesterol level and obesity index. Risks associated with ETS exposure were almost always strengthened by adjustment for other confounders. The association between CHD and risk is stronger for mortality than for non-fatal outcomes, including angina. It is also evident that these effects exacerbate or are exacerbated by underlying conditions, and individuals with other chronic conditions such as diabetes, vascular disease or hypertension comprise a susceptible population at even greater risk from ETS exposure.

Data from clinical and animal studies suggest various mechanisms by which ETS causes heart disease. In a number of studies in which nonsmokers were exposed to ETS, carotid wall thickening, lesion formation, aortic distensibility and reactivity, and compromise of endothelial function were similar to, but less extensive than those experienced by active smokers. Other effects observed include impaired exercise performance, altered lipoprotein profiles, enhanced platelet aggregation, and increased endothelial cell counts. These findings may account for both the short- and long-term effects of ETS exposure on the heart. The data reviewed also suggests that the effects of ETS may also contribute to stroke, the etiology of which includes atherosclerosis of the carotid and large arteries of the brain, and degeneration of intracerebral arteries.

ITEM 8
Attachment 4

HEALTH AND SAFETY CODE SECTION 39650

39650. The Legislature finds and declares the following:

(a) That public health, safety, and welfare may be endangered by the emission into the ambient air of substances which are determined to be carcinogenic, teratogenic, mutagenic, or otherwise toxic or injurious to humans.

(b) That persons residing in California may be exposed to a multiplicity of toxic air contaminants from numerous sources which may act cumulatively to produce adverse effects, and that this phenomenon should be taken into account when evaluating the health effects of individual compounds.

(c) That it is the public policy of the state that emissions of toxic air contaminants should be controlled to levels which prevent harm to the public health.

(d) That the identification and regulation of toxic air contaminants should utilize the best available scientific evidence gathered from the public, private industry, the scientific community, and federal, state, and local agencies, and that the scientific research on which decisions related to health effects are based should be reviewed by a scientific review panel and members of the public.

(e) That, while absolute and undisputed scientific evidence may not be available to determine the exact nature and extent of risk from toxic air contaminants, it is necessary to take action to protect public health.

(f) That the state board has adopted regulations regarding the identification and control of toxic air contaminants, but that the statutory authority of the state board, the relationship of its proposed program to the activities of other agencies, and the role of scientific and public review of the regulations should be clarified by the Legislature.

(g) That the Department of Food and Agriculture has jurisdiction over pesticides to protect the public from environmentally harmful pesticides by regulating the registration and uses of pesticides.

(h) That while there is a statewide program to control levels of air contaminants subject to state and national ambient air quality standards, there is no specific statutory framework in this division for the evaluation and control of substances which may be toxic air contaminants.

(i) That the purpose of this chapter is to create a program which specifically addresses the evaluation and control of substances which may be toxic air contaminants and which complements existing authority to establish, achieve, and maintain ambient air quality standards.

(j) That this chapter is limited to toxic air contaminants and nothing in the chapter is to be construed as expanding or limiting the authority of any agency or district concerning pesticides which are not identified as toxic air contaminants.

(k) That a statewide program to control toxic air contaminants is necessary and desirable in order to provide technical and scientific assistance to the districts, to achieve the earliest practicable control of toxic air contaminants, to promote the development and use of advanced control technologies and alternative processes and

materials, to identify the toxic air contaminants of concern and determine the priorities of their control, and to minimize inconsistencies in protecting the public health in various areas of the state.