

## MODEL ORDINANCE GOVERNING PLANNING AND DEVELOPMENT ON ALLUVIAL FANS

### Preface

*To implement the local planning tools presented in the Integrated Approach, the AFTF has developed a Model Ordinance (MO) that cities and counties with alluvial fans located within their jurisdictions may consider for local adoption.*

*The MO is designed to lead to better informed land use decisions for planning and development on alluvial fans. In particular, the MO is designed to ensure that such land use decisions achieve three critically important objectives: (1) to minimize flooding and other hazards that are posed by locating development on alluvial fans; (2) to minimize the costs and damages that may result from these hazards; and (3) to preserve and maximize the flood protection, environmental and other beneficial values that alluvial fans provide. To that end, the MO sets forth procedures to be followed, and substantive factors to be considered, for local land use decisions involving alluvial fan areas, including both planning-level decisions associated with periodic General Plan updates and project-level decisions for individual development projects as they are proposed. The ultimate goal is for local communities to utilize the best available scientific information to ensure that planning and development on alluvial fans are smart, safe and sustainable.*

*Local communities may, at their discretion, adopt the MO or revise it as appropriate to suit local needs and conditions. For instance, local communities may decide to broaden, or narrow, the types of land use decisions or proposed development projects that are subject to the ordinance. Local communities may also decide to change the threshold dividing those types of development projects that are subject to a full review of alluvial fan issues, and those types of projects that may be reviewed through a more streamlined process. There is also an optional provision provided for communities seeking discounted flood insurance premiums for property owners through participation in the Community Rating System (CRS) which recognizes efforts that go beyond minimum standards. Discounted premiums provide an additional incentive to participate in the voluntary purchase of flood insurance through FEMA's National Flood Insurance Program (NFIP).*

*In all cases, local communities are encouraged to consider and utilize the local planning tools as early as possible in the land use planning process, with the aim of promoting decisions that take into account the unique hazards and benefits posed by the particular alluvial fan at issue. The Task Force intends that the following Model Ordinance be a flexible model that local governments can adapt to their own conditions to meet local needs.*

## SECTION 1.0

### STATUTORY AUTHORIZATION, FINDINGS AND PURPOSE

#### 1.1 STATUTORY AUTHORIZATION

Article XI, Section 7, of the California Constitution confers upon local governments the authority to adopt ordinances and regulations that are designed to promote the public health, safety, and general welfare of their citizenry. In accordance with its constitutional police powers, the [*governing body*] of [*name of city or county*] does hereby adopt the following ordinance governing land use decision-making for sites located on an alluvial fan.

#### 1.2 FINDINGS

The [*governing body*] of [*name of city or county*] hereby finds as follows:

- A. Alluvial fans are dynamic landscapes that can pose serious flooding and other hazards. Alluvial fan flooding is difficult to predict, and is often fast-flowing and accompanied by substantial debris flows. Other potential hazards associated with alluvial fans include wildfires, erosion, collapsible soils and seismic hazards.
- B. The various hazards associated with alluvial fans can cause serious risks to public health and safety and extensive damage to property, buildings and infrastructure. As a result, alluvial fan hazards can result in significant costs to public agencies and communities where alluvial fans are located.
- C. Alluvial fans also provide multiple benefits by supporting valuable floodplain management, ecological, environmental, geological, hydrological, open space and aesthetic resources.
- D. Alluvial fans present a significant challenge for public agencies and local communities because they often present prime opportunities for development. Alluvial fans typically offer premium building sites near mountainous areas that provide recreational opportunities and excellent views.
- E. Many of the alluvial fans in Southern California have experienced development and alluvial fans will continue to be developed for the foreseeable future. Alluvial fans exist within [*name of city or county*].
- F. Alluvial fans are comprised of a mosaic of surfaces that include geologically and hydrologically active or inactive surfaces that provide diverse benefits and pose differing risks to people and property.
- G. Local agencies should strive to manage development on alluvial fans in a safe and environmentally sustainable manner by considering the dynamic and often hazardous nature of alluvial fans, the multiple benefits provided by alluvial fans, the scientific information and resources that have been developed concerning alluvial fans, unique local conditions, and the needs of the local community.
- H. [*Name of city or county*] has land use authority over the use and development of land located on alluvial fans within its jurisdiction, including the power to specify the

procedures and considerations for evaluating proposed development on alluvial fans and the power to require measures to minimize the potential flooding and other hazards posed by locating development on an alluvial fan.

I. The California Alluvial Fan Task Force has developed a detailed set of planning tools and approaches (“*AFTF Local Planning Tools*”) that local agencies may use when planning for the use and development of land located on alluvial fans. The AFTF Local Planning Tools have been approved by the California Department of Water Resources and are publicly available in a document entitled *The Integrated Approach for Hazard and Resource Evaluation for Sustainable Development on Alluvial Fans* (“*AFTF Integrated Approach*”). The AFTF Local Planning Tools provide valuable guidance and suggested methodologies for assessing the flooding and other hazards that may be posed by locating development on alluvial fans; assessing the environmental and other benefits provided by preserving alluvial fans in their natural state; identifying practices for reducing alluvial fan hazards and maximizing alluvial fan beneficial values; and assessing the long-term economic impacts associated with locating development on alluvial fans. The AFTF Local Planning Tools present a broad suite of options that local communities may use when faced with the challenges that alluvial fans present.

J. The AFTF Integrated Approach is consistent with the California Department of Water Resources FloodSAFE vision for “a sustainable integrated flood management and emergency response system throughout California that improves public safety, protects and enhances environmental and cultural resources, and supports economic growth by reducing the probability of destructive floods, promoting beneficial floodplain processes, and lowering the damages caused by flooding.”

### 1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare by directing the management of alluvial fans in a manner that considers the multiple hazards that may be posed by locating development on alluvial fans, the multiple benefits provided by alluvial fans, unique local conditions, and the scientific tools and resources that have been developed concerning alluvial fans. In accordance with this overarching purpose, this ordinance establishes the procedures and considerations for planning for, evaluating and managing the use and development of land located on alluvial fans within the jurisdiction of [*name of city or county*]. The ordinance is designed to achieve the following goals:

- A. To protect human life and health.
- B. To minimize the costs posed by alluvial fan hazards, including the risks of damage to public and private property, utilities and other infrastructure located on alluvial fans, such as water and gas mains; canals; electric, telephone and sewer lines; and streets, highways and bridges.
- C. To minimize the need for rescue, flood-fighting, relief and rehabilitation efforts associated with alluvial fan flooding and the associated expense to the general public.
- D. To minimize prolonged business interruptions and loss of residential occupancy that may result from the hazards posed by locating development on alluvial fans.

- E. To provide notice to potential purchasers of property located on alluvial fans that the property is in an area that may be subject to flooding or other potential hazards.
- F. To promote the sustainability of resources by maximizing and conserving to the extent feasible the benefits provided by alluvial fans.
- G. To provide a framework for property owners to develop land located on alluvial fans in a safe and sustainable manner.
- H. To balance the benefits provided by alluvial fans with the benefits provided by new development.
- I. To establish a process to identify the costs and hazards associated with locating development on alluvial fans and the possible methods for addressing these costs and hazards, in order to guide informed decision-making concerning the use and development of lands located on alluvial fans.

## **SECTION 2.0**

### **DEFINITIONS**

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

**“Active Alluvial Fan Flooding”** is flooding that occurs only on alluvial fans and is characterized by flow path uncertainty so great that this uncertainty cannot be set aside in realistic assessments of flood risk or in the reliable mitigation of the hazard. An active alluvial fan flooding hazard is indicated by three related criteria: (1) flow path uncertainty below the hydrographic apex; (2) abrupt deposition and ensuing erosion of sediment as a stream or debris flow loses its ability to carry material eroded from a steeper, upstream source area; and (3) an environment where the combination of sediment availability, slope, and topography creates an ultra-hazardous condition for which elevation on fill will not reliably mitigate the risk.

**“Alluvial fan beneficial values”** are the floodplain management, ecological, environmental, geological, hydrological, groundwater recharge, open space, aesthetic and other positive values attributed to the preservation of areas that are located on alluvial fans.

**“Alluvial fan flooding”** is a type of flooding that occurs only on alluvial fans. It encompasses both “active alluvial fan flooding” and “inactive alluvial fan flooding” and can include distributary flow, sheet flow, and sheet flooding.

**“Alluvial fan hazards”** refers to the potential for flooding and other threats to life, property and safety that may occur when development is located on an alluvial fan.

The **“Alluvial Fan Task Force”** or **“California Alluvial Fan Task Force”** (or **“AFTF”**) was established pursuant to California Assembly Bill 2141 (2004) under the auspices of the California Department of Water Resources. The AFTF includes officials from state and federal public agencies, local government representatives, flood control and floodplain managers, representatives of the development community, land use advocates and various at-large members. The AFTF study area covers the Counties of Los Angeles, Kern, San Bernardino, Riverside, Orange, San Diego, Imperial, Ventura, Santa Barbara and San Luis Obispo. The mission of the AFTF has been to review the current state of the knowledge about alluvial fans and to develop local planning tools aimed at reducing alluvial fan hazards and promoting alluvial fan beneficial values.

The “*Alluvial Fan Task Force Integrated Approach*” (“*AFTF Integrated Approach*”) is a catalogue of information and methodologies designed for local agencies to utilize when planning for, evaluating and managing the use and development of areas located on alluvial fans within their jurisdiction. It is officially entitled “*An Integrated Approach for Evaluating Hazards and Beneficial Floodplain Values for Sustainable Development on Alluvial Fans.*” It reflects the current knowledge about alluvial fans, alluvial fan beneficial values, and alluvial fan hazards. The AFTF Integrated Approach identifies planning tools and approaches (the “*AFTF Local Planning Tools*”) that may be used to minimize risks to life and property from alluvial fan hazards and to protect and maximize alluvial fan beneficial values. The AFTF Integrated Approach was prepared by the California Alluvial Fan Task Force pursuant to California Assembly Bill 2141 (2004). It is [on file at address: e.g., City Hall, County Administration Building, Department of Planning or Public Works, etc.] [Attached to this ordinance as Appendix A] [Posted on the California Department of Water Resources’ website at (insert URL)].

“*Building*” - see “*Structure*”

“*Clast*” means an individual constituent, grain or fragment of sediment or rock, produced by the mechanical or chemical weathering (i.e., disintegration) of a larger rock mass.

“*Debris flow*” is a mix of water and debris, which may include clasts ranging in size from clay particles to boulders and may contain abundant woody debris and other materials, that flows down a stream channel or steep slope, sometimes at great velocity, and contains more than 60 percent debris (less than 40 percent water) by volume.

“*Desert varnish*” is a thin, dark, shiny film or coating formed on the surfaces of clasts resulting from long-term exposure to an arid climate.

“*Development*” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

“*Distributary flow*” consists of a diffuse flow where there is a distinct channel fork at an out flowing branch of a stream. Areas with distributary flow typically are composed of channel forks, joins and outlets. Active alluvial fans typically are characterized by distributary flow.

“*Engineered Control Structure*” is an engineered structure, such as a dam or debris basin, that is designed to minimize the risks posed by alluvial fan flooding, for example, by restricting the flow of runoff from the upland watershed onto the alluvial fan, or by preventing flooding on an alluvial fan from leaving a designed flow channel.

“*FEMA*” means the Federal Emergency Management Agency.

“*Flood*” or “*flooding*” 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 or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

“*Governing body*” is the local governing unit (i.e., county or municipality) that is empowered to adopt and implement rules and regulations to provide for the public health, safety and general welfare of its citizenry.

“*Hydrographic apex*” means the head or highest point on an active alluvial fan.

“**Hyper-concentrated flow**” is a moving mixture of sediment and water containing between 20 and 60 percent sediment by volume.

“**Inactive alluvial fan flooding**” refers to flooding that is similar to traditional riverine flood hazards, but occurs only on alluvial fans. Inactive alluvial fan flooding is characterized by flow paths with a higher degree of certainty in realistic assessments of flood risk or in the reliable mitigation of the hazard. Unlike active alluvial fan flooding hazards, an inactive alluvial fan flooding hazard is characterized by relatively stable flow paths. However, like areas of active alluvial fan flooding, inactive alluvial fan flooding, may be subject to sediment deposition and erosion, but to a degree that does not cause flow path instability and uncertainty.

“**Local administrator**” is the individual that is designated by [*name of city or county*] to administer and enforce the provisions of this ordinance.

“**Riverine**” means pertaining to or formed by a river.

“**Sediment**” refers to fragmental material that originates from the weathering of rocks, and is transported by, suspended in, or deposited by water or air, or is accumulated in beds by other natural occurrences such as the evaporation of saline water.

“**Sheet flood**” refers to a broad expanse of moving, storm-borne water that spreads as a thin, continuous, relatively uniform film over a large area in an arid region and that is not concentrated into well defined channels; its distance of flow is short and its duration is measured in minutes or hours.

“**Sheet Flow**” refers to an overland flow or down slope movement of water taking the form of a thin, continuous film over relatively smooth soil or rock surfaces and not concentrated into channels larger than rills. This flow typically is short lived with a limited travel distance. Most surface runoff starts as overland flow and commonly enters rills before it concentrates in channels. Natural overland flow is characterized by several lateral down slope concentrations of flow rather than uniform sheet flow.

“**Structure**” means a walled and roofed building that is substantially above ground.

“**Sustainability**” or “**sustainable development**” refers to development that meets the needs of the present, while using natural resources including land, water, and energy in a way that does not compromise the ability of future generations to meet their own needs.

“**Uncertain flow path**” means that the perceived, historical channel or network of channels cannot be relied on to convey a base flood without the creation of new flow paths or the abandonment of existing flow paths.

## **SECTION 3.0**

### **GENERAL PROVISIONS**

#### **3.1 DESIGNATION OF LOCAL ADMINISTRATOR**

The [*City Manager, Planning Director, Public Works Director, Building Official, etc.*] is hereby designated by the [*name of city or county*] to administer, implement and enforce the provisions of this ordinance.

### 3.2 CONSULTATION WITH FLOOD OFFICIALS AND USE OF THE AFTF INTEGRATED APPROACH AND LOCAL PLANNING TOOLS

- (a) In fulfilling the provisions of this ordinance, the Local Administrator shall to the extent feasible consult with any local agencies or officials with responsibility for flood management and protection in [name of city or county].
- (b) In fulfilling the provisions of this ordinance, the Local Administrator is authorized to rely upon the sources of information and the planning tools and approaches that are outlined in the AFTF Integrated Approach. Specific provisions contained in the AFTF Integrated Approach include the following Local Planning Tools:
- (1) Identify whether proposed site is on a regulated floodplain with adequate flood protection (*Tool FZ1*–identify if the site is located within FEMA special flood hazard area; *Tool FZ2*–identify the presence of existing flood control structures)
  - (2) Consider relative flood hazard potential (*Tool AF1*–identify if the site is in an area underlain by quaternary age alluvial sediments; *Tool AF2*–map the general distribution and relative potential for alluvial fan flooding).
  - (3) Consider other hazards present on proposed site (*Tool MH1*–map zones prone to surface rupture of active faults; *Tool MB2*– identify ecologically valuable areas; *Tool MB3*– identify mineral resources; *Tool MB4*– identify culturally significant zones; *Tool MB5*– identify current and future uses).
  - (4) Consider beneficial resources on proposed site (*Tool MB1*– identify recharge areas; *Tool MB2*– consider the site’s seismic shaking potential; *Tool MH3*–identify landslide and rockfall hazard potential; *Tool MH4*–identify presence of hazardous minerals, unstable geological units and hazardous materials; *Tool MH5*–delineate potential wildfire hazards; *Tool MH6*–delineate other hazards identified by local agencies).
  - (5) Consider capacity to address multiple objectives consistent with FloodSAFE (*Tool SA1*– examine capability of site for proposed use; *Tool SA2*– examine suitability of site for proposed use).
  - (6) Consider problem-solving economic strategies (*Tool ECON1*- multiple-benefit IRWM projects; *Tool ECON2*–perform a cost-benefit analysis; *Tool ECON3*–examine resources for economic management; *Tool ECON4*–examine public or private transfers or purchases of development rights; *Tool ECON5*–identify other funds for financial assistance; *Tool ECON6*–develop cost-effective clean-up procedures; and *Tool ECON7*–examine the asset management plan for flood management infrastructure).
  - (7) Consider flood management tools (*Tool FM1*– identify the presence of an alluvial fan; *Tool FM2*– identify existing hazards on alluvial fan areas; *Tool FM3* define the active and inactive areas of a fan; *Tool FM4*– establish the appropriate level of hazard protection; *Tool FM5*– identify the studies necessary to demonstrate that the proposed project would be protected from the design flood; and *Tool FM6*– incorporate multiple objectives into the mitigation measures).
- (c) In fulfilling the provisions of this ordinance, the Local Administrator is also authorized to rely upon any additional relevant information pertaining to alluvial fans.

### **3.3 RELATIONSHIP TO OTHER LAWS**

(a) This ordinance is not intended to supersede, repeal, abrogate, or impair any existing law, regulation, ordinance or resolution. However, where this ordinance and another law, regulation, ordinance or resolution overlap, whichever imposes the more stringent requirements shall prevail.

(b) This ordinance is not intended to duplicate, expand or replace other legal requirements that may be applicable with respect to the use and development of land that is located, in whole or in part, on an alluvial fan. Such other legal requirements under State law may include, for example, applicable provisions in the California Fish & Game Code; the California Water Code; the California Environmental Quality Act; the California Building Code; and other California laws and regulations governing public health and safety, geologic or seismic hazards, hazardous substances, or land use planning and zoning. Such other legal requirements under Federal law may include, for example, applicable provisions of the Endangered Species Act; the Clean Water Act; and federal regulations promulgated by FEMA to govern the provision of flood insurance. However, in fulfilling the provisions of this ordinance, the Local Administrator may review and rely upon any relevant studies or information prepared pursuant to these other legal requirements.

### **3.4 INTERPRETATION**

In the interpretation and application of this ordinance, all provisions shall be liberally construed in favor of [name of city or county], and deemed neither to limit nor repeal any other powers granted to [name of city or county] by the California Constitution or the statutes of this State.

### **3.5 WARNING AND DISCLAIMER OF LIABILITY**

Even with the adoption and implementation of this ordinance, alluvial fan hazards will continue to exist. This ordinance is not meant to imply that land uses that are permitted on an alluvial fan will be free from alluvial fan hazards or from damages resulting from such hazards. This ordinance shall not create any liability on the part [name of city or county], any of its officers or employees, the State of California, or the federal government, for any flood or other damages that may result from reliance on this ordinance or on any administrative decision lawfully made under this ordinance.

### **3.6 SEVERABILITY**

This ordinance and the various parts of it are severable. Should any section of this ordinance be declared by a court of law to be unconstitutional or otherwise invalid, the court's decision shall not affect the validity of the ordinance as a whole, or any portion of the ordinance, except for the section of the ordinance that the court declares to be unconstitutional or invalid.

## **SECTION 4.0**

### **ALLUVIAL FAN PLANNING AS PART OF GENERAL PLAN PROCESS**

Section 65302(d)(3) of the California Government Code, which is part of the California Planning and Zoning Law, requires that the Conservation Element of the General Plan, upon the next revision of the Housing Element of the General Plan, identify rivers, creeks, streams, flood corridors, riparian habitats, and land that may accommodate floodwater for purposes of groundwater recharge and stormwater management. Section 65302(a) of the California Government Code requires that the Land Use Element of the General Plan give consideration to the identification of land and natural resources pursuant to Section 65302(d)(3), and also that the Land Use Element of the General Plan identify and annually review those areas covered by the Plan that are subject to flooding. Section 65302(g)(2) of the California Government Code further requires that the

Safety Element of the General Plan, upon the next revision of the Housing Element of the General Plan, (A) identify specified information regarding flood hazards; (B) establish a set of comprehensive goals, policies, and objectives based on that information for the protection of the community from the unreasonable risks of flooding; and (C) establish a set of feasible implementation measures designed to carry out these goals, policies and objectives. In addition to any requirements imposed by these state law provisions, [name of city or county], when updating its General Plan in accordance with these provisions, shall, at a minimum, identify the presence of any alluvial fans within the area covered by the General Plan and identify the potential flood hazards associated with any such alluvial fans. In so doing, [name of city or county] is authorized to rely upon the AFTF Integrated Approach and the AFTF Local Planning Tools.

## **SECTION 5.0**

### **EVALUATING PROPOSED DEVELOPMENT ON AN ALLUVIAL FAN**

#### **5.1 DETERMINATION OF WHETHER THE PROPOSED DEVELOPMENT IS LOCATED ON AN ALLUVIAL FAN**

- (a) The requirements of this **Section 5.1** apply only to applications for development that require (independent of any provisions in this ordinance) a discretionary approval by [name of city or county].
- (b) Whenever an application is submitted to [name of city or county] for any development covered by **Section 5.1(a)**, the application shall contain information sufficient to enable the Local Administrator to determine whether the proposed development is located, in whole or in part, on an alluvial fan.
- (c) To satisfy the requirement in **Section 5.1(b)**, the applicant may: (1) rely on an evaluation that has been or is being conducted by [name of city or county] in accordance with **Section 4.0**; (2) rely on maps or other information available from local agencies or officials with responsibility for flood management and protection, the State of California, or Federal agencies such as FEMA; (3) utilize the AFTF Local Planning Tools and AFTF Integrated Approach; and/or (4) use an equivalent approach to the satisfaction of the Local Administrator.
- [NOTE: Pursuant to the Permit Streamlining Act, and in particular Cal. Govt. Code § 65940, the local jurisdiction enacting this Model Ordinance will need to specify in advance the information pertaining to alluvial fans that will be required from any applicants for proposed development projects.]*
- (d) To the extent [name of city or county] has previously conducted an evaluation in accordance with **Section 4.0** that resulted in a determination that the site of the proposed development is located on an alluvial fan, the applicant may present updated information and analysis to request a change in this determination.
- (e) The Local Administrator shall, promptly after [name of city or county] has determined in accordance with its established procedures that the development application is complete, shall make a determination whether the proposed development is located, in whole or in part, on an alluvial fan. In making this determination, the Local Administrator shall consult with any local agencies or officials with responsibility for flood management and protection in [name of city or county].
- (f) If the Local Administrator determines that the proposed development is located, in whole or in part, on an alluvial fan, then the Local Administrator shall comply with the provisions of **Section 5.2** of this ordinance.
- (g) If the Local Administrator determines that no part of the proposed development is located on an alluvial fan, then nothing further is required under this ordinance.

(h) The information utilized by the Local Administrator for purposes of identifying whether an area is located on an alluvial fan will be on file at [address: e.g., City Hall, County Administration Building, Department of Planning or Public Works, etc.].

## **5.2 DETERMINATION OF WHETHER THERE IS AN ENGINEERED CONTROL STRUCTURE THAT WOULD ADEQUATELY PROTECT THE PROPOSED DEVELOPMENT FROM ALLUVIAL FAN FLOODING**

(a) The requirements of this **Section 5.2** apply only where both of the following conditions exist: (1) the proposed development requires a discretionary approval by [name of city or county] as provided in **Section 5.1(a)**; and (2) the Local Administrator has determined that the proposed development is located, in whole or in part, on an alluvial fan.

(b) For a proposed development that meets the criteria specified in **Section 5.2(a)**, the Local Administrator shall consult with the local agencies or officials with responsibility for flood management and protection in [name of city or county] to ascertain whether they have determined that there are engineered control structures that are adequate to protect the proposed development from alluvial fan flooding.

(c) If the local agencies or officials with responsibility for flood management and protection in [name of city or county] have determined that there are engineered control structures that are adequate to protect the proposed development from alluvial fan flooding, then nothing further is required under this ordinance.

(d) If the local agencies or officials with responsibility for flood management and protection in [name of city or county] have not determined that there are engineered control structures that are adequate to protect the proposed development from alluvial fan flooding, then the Local Administrator shall comply with **Section 5.3** or **Section 5.4**, whichever one of these provisions is applicable according to its terms.

[NOTE: The following is an optional, additional provision that local communities may adopt for seeking credit points under FEMA's Community Rating System (CRS). Communities may adopt only one or two of the three requirements, but they will receive fewer points.]

(e) For a proposed development that meets the criteria specified in Section 5.2(a) where the local agencies or officials with responsibility for flood management and protection in [name of city or county] have not determined that there are engineered control structures that are adequate to protect the proposed development from alluvial fan flooding, the applicant for the proposed development must demonstrate to the Local Administrator that

1. All new structures are required to be protected from alluvial fan hazards;
2. All utilities are required to be designed to function and minimize damage during the 100-year event; and
3. Access to the development is required during the 100-year event.

### 5.3 CONSIDERATIONS FOR LARGER DEVELOPMENTS LOCATED ON AN ALLUVIAL FAN

(a) This **Section 5.3** applies only where all of the following conditions exist: (1) the proposed development requires a discretionary approval from [*name of city or county*] as provided in **Section 5.1(a)**; (2) the Local Administrator has determined that the proposed development is located, in whole or in part, on an alluvial fan; (3) the local agencies or officials with responsibility for flood management and protection in [*name of city or county*] have not determined that there are engineered control structures that are adequate to protect the proposed development from alluvial fan flooding; and (4) the proposed development is not a single-family residence, and either includes ten or more lots or is ten acres or larger.

(b) For a proposed development that meets the criteria specified in **Section 5.3(a)**, the Local Administrator shall, subject to the provisions of this **Section 5.3**, provide a written recommendation to the official or body of [*name of city or county*] that has discretionary decision-making authority over the proposed development. There is no prescribed format for the written recommendation, but the objective of the recommendation shall be to achieve the following three goals with respect to the proposed development: (i) to minimize the alluvial fan hazards; (ii) to minimize the costs that may result from these hazards; and (iii) to maximize the alluvial fan beneficial values.

(c) The official or body that has discretionary decision-making authority over the proposed development shall consider the written recommendation of the Local Administrator, but the written recommendation is not binding on the decision of that official or body with regard to the development. However, if the official or body with discretionary decision-making authority over the proposed development decides not to accept all or part of the Local Administrator's recommendation, then the official or body must provide a written explanation for that decision, which must be supported by evidence in the administrative record that accompanies the final decision with regard to the proposed development. This explanation shall be made available to the public as part of the decision-making process on the proposed development.

(d) Nothing in this ordinance shall be construed to extend or alter the deadlines for acting on a proposed development as set forth in the California Permit Streamlining Act, Cal. Gov. Code §§ 65920 et seq.

(e) When making the written recommendation referenced in **Section 5.3(b)**, the Local Administrator shall consult with any local agencies or officials with responsibility for flood management and protection in [*name of city or county*] and shall take into account the following considerations:

- (1) The potential alluvial fan hazards that may be posed by locating the proposed development on the alluvial fan, including the hazards caused by modifying flood channels and by cumulative development on the alluvial fan.
- (2) The flood protection facilities, procedures and protocols for the area of the proposed development.
- (3) The funds available for flood protection projects or programs, including long-term maintenance and operations, in the area of the proposed development.
- (4) The funds available for emergency response and preparedness, and for potential reconstruction, following damage caused by alluvial fan flooding or other alluvial fan hazards.

- (5) The alluvial fan beneficial values (including the ecological, environmental, open space, flood protection, groundwater recharge and other benefits) that are provided where the development is proposed to be located on the alluvial fan area.
- (6) Considerations for maximizing alluvial fan beneficial values and for minimizing alluvial fan hazards, including but not limited to whether there are any specific measures that could be implemented to minimize potential flood hazards that may result from locating the proposed development on an alluvial fan.

(f) In preparing the written recommendation as provided herein, the Local Administrator is authorized to rely upon the sources of information and the planning tools and approaches that are outlined in the AFTF Report, as specified in **Section 3.2**. The Local Administrator is also authorized to rely upon any additional relevant information pertaining to alluvial fans, including any information provided by the applicant for the proposed development.

(g) The written recommendation of the Local Administrator is not a final decision and may not be appealed administratively. However, a decision by [*name of city or county*] concerning the proposed development may be appealed in accordance with, and to the extent allowed by, the administrative appeal procedures of [*name of city or county*].

#### **5.4 PROVISIONS FOR SMALLER DEVELOPMENTS**

(a) This **Section 5.4** applies only where all of the following conditions exist: (1) the proposed development requires a discretionary approval from [*name of city or county*] as provided in **Section 5.1(a)**; (2) the Local Administrator has determined that the proposed development is located, in whole or in part, on an alluvial fan; (3) the local agencies or officials with responsibility for flood management and protection in [*name of city or county*] have not determined that there are engineered control structures that are adequate to protect the proposed development from alluvial fan flooding; and (4) the proposed development is either (i) a single family residence, or (ii) includes fewer than ten lots and is less than ten acres.

(b) For a proposed development that meets the criteria specified in **Section 5.4(a)**, the Local Administrator is not required to prepare a written recommendation. However, in making a final decision on the proposed development, [*name of city or county*] shall consider the factors listed in **Section 5.3(e)** to the extent feasible given the scale, nature and location of the proposed development.