

ORDINANCE NO. - N.S.

ADDING SECTION 17.08.055 TO THE BERKELEY MUNICIPAL CODE TO INCORPORATE STANDARDS GOVERNING REBUILDING OF STRUCTURES THAT ENCROACH IN THE REQUIRED SETBACK IN THE EVENT OF DESTRUCTION DUE TO DISASTER OR SIMILAR OCCURRENCE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That a new Section 17.08.055 is added to the Berkeley Municipal Code to read as follows:

**17.08.055 Replacement of a structure or any portion thereof where destroyed due to disaster or similar occurrence .**

Notwithstanding Section 17.08.050, a structure, or any portion thereof, may be replaced or reconstructed as long as all the following conditions exist:

A. The structure, or any portion thereof, has been destroyed by causes such as fire, earthquake or flood.

B. The proposed structure to replace or reconstruct the structure or portion thereof, is reasonably similar in use, dimensions, floor area, square footage, lot coverage and footprint to the destroyed structure and complies with all currently applicable building codes.

C. If a culvert exists on the parcel and the proposed replacement will be within 30 feet of the centerline of such culvert, the applicant has submitted a report by a licensed structural engineer demonstrating to the satisfaction of the City that the proposed replacement structure will not negatively affect the culvert and that the replacement structure is designed with a foundation, such as pile supported, which does not exert any bearing load on the culvert. In making this determination, the report included information related to the proposed foundation design, the bearing strength of the soil, and the depth and size of the culvert. Alternatively, the applicant has submitted a report by a licensed structural engineer which has demonstrated to the City's satisfaction either that there is no feasible alternative to avoid imposing additional loading on the culvert, and the analysis provided has determined that the culvert has sufficient strength to resist such loading or the applicant proposes to reinforce the culvert as part of the project at the applicant's expense in a manner satisfactory to the City.

Section 2. Copies of this Ordinance shall be posted for two (2) days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King, Jr. Way. Within fifteen (15) days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation