

## *California Drainage Law - Summary*

California Drainage Law is essentially Case law. Therefore, it is complex, but the courts have established the following general principles, which apply in general to development projects:

- The downstream property owner is obligated to accept and make provisions for those waters that are the natural flow from the land above.
- The upstream property owner shall not concentrate water where it was not concentrated before without making proper provision for its disposal without damage to the downstream property owner.
- The upstream property owner may reasonably increase drainage runoff by paving or construction of other impervious surfaces, including buildings, without liability. The upstream property owner may not further increase drainage runoff by diversion of water that previously drained to another area. Reasonableness is often based on prevailing standards of practice in the community or region.
- No property owner shall block, or permit to be blocked, any drainage channel, ditch, or pipe. No property owner shall divert drainage water without properly providing for its disposal.

### *Government Code 65302*

Government Code Section 65302(a) requires cities and counties located within the state to review the Land Use, Conservation, and Safety elements of the general plan "for the consideration of flood hazards, flooding, and floodplains" to address flood risks.<sup>1</sup> Any amendment to the Land Use, Conservation, or Safety elements requires a review of other general plan elements for internal consistency, including the Housing Element.

The code also requires cities and counties in the state to annually review the land use element within "those areas covered by the plan that are subject to flooding identified by floodplain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources."

FEMA's floodplain mapping includes:

- Flood Insurance Rate Maps (FIRM)
- Digital Flood Insurance Rate Maps (DFIRM)

DWR's floodplain mapping includes:

- Awareness Floodplain Maps
- Best Available Mapping (BAM)

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1. California Government Code, Sec. 65300 – 65303.4, Authority and Scope of General Plans.