CALIFORNIA COASTAL COMMISSION

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Filed: July 16, 2010
60th Day: August 15, 2010
1-Year Extension Date: October 14, 2011
Staff: James R. Baskin AICP
Staff Report: November 24, 2010
Hearing Date: December 16, 2010

Commission Action:

TO: Commissioners and Interested Parties

FROM: Peter M. Douglas, Executive Director

Robert S. Merrill, North Coast District Manager

James R. Baskin AICP, Coastal Planner

SUBJECT: Del Norte County LCP Amendment No. DNC-MIN-1-09, Flood Damage

Prevention Amendment (Updated Floodplain Management Standards).

(Meeting of December 16, 2010, in San Francisco)

1. <u>LCP Amendment Description and Discussion.</u>

The County of Del Norte has submitted a Local Coastal Program (LCP) amendment application seeking certification from the Commission modifying the "Flood Damage Prevention" chapter of its Implementation Plan (IP) to update its floodplain management regulations consistent with those promulgated for the National Flood Insurance Program (NFIP) by the Federal Emergency Management Agency (FEMA). All other procedures for the review, authorization, and appeal of coastal development and conditional use permits for development within floodplains would remain unchanged.

The change in the zoning code would affect development located within flood-prone areas as mapped on the set of "Flood Insurance Rate Maps" developed for Del Norte County by FEMA. The Flood Insurance Rate Maps are part of a revised Flood Insurance Study dated September 26, 2008 which, with any subsequent revisions, is incorporated by reference into the ordinance and replaces an earlier version of the flood insurance study that had been incorporated by reference into the existing ordinance.

DEL NORTE COUNTY LCP AMENDMENT (FLOOD DAMAGE PREVENTION) DNC-MIN-1-09 PAGE 2

Numerous new or expanded definitions would also be added to the flood damage prevention ordinance, addressing types of development and situations previously undefined or vaguely defined, including "accessory structures," "coastal high hazard area," "existing manufactured home, park, or subdivision," "expansion to an existing manufactured home, park, or subdivision," "historic structures," and "lowest floor." Moreover, the revised ordinance would locally implement many of the new national floodplain management policies including: (a) imposing "flood-proofing" design standards for the foundation, wall, utility, and mechanical components within the portions of primary and accessory structures which would be inundated in flooding events; (b) requiring anchored foundations for manufactured homes; (c) establishing variance processes for certain limited circumstances, such as for historic or existing structures; and (c) setting procedures for the issuance of "letters of map revision" to correct errant floodplain mapping.

Since there is no resulting increase in land use density, the LCP amendment would not create any additional demand on coastal resources, would not result in cumulative impacts, and is thus consistent with Section 30250 of the Coastal Act. Furthermore, all affirmative findings required under the both coastal development and use permit processes would remain unaltered with respect to any proposed placement of improvements within flood-prone areas being found consistent with all policies and standards of the LCP. Moreover, the proposed amendment comprises changes in wording of the Flood Damage Prevention zoning ordinance which make the allowance for certain uses designated in the ordinance more specific and does not change the kind, location, intensity, or density of a use that has been found consistent with the land use plan. Therefore, as the proposed zoning code changes meet the criteria of a "minor amendment to an LCP" as defined under Section 13554(a) of the Commission's administrative regulations (14 CCR §§13001 et seq.), the Executive Director finds the proposed rezoning to be consistent with the Coastal Act and minor in nature.

2. <u>Public Participation and Commission Review.</u>

The proposed LCP amendment was the subject of local public hearings before the County Planning Commission and the Board of Supervisors. All of these public hearings were properly noticed to provide for adequate public participation. The LCP amendment submittal was filed as complete on October 28, 2010 and is consistent with Section 30514 of the Coastal Act and Section 13553 of Title 14 of the California Code of Regulations. Copies of the Board of Supervisors' Resolution and Ordinance are attached as Exhibits 3 and 4.

The Executive Director has determined that the proposed LCP amendment is "minor" in nature under Sections 13554 and 13555 of the Commission's regulations, since the amendment would not result in a change to the kind, density, or intensity of use of the land on the subject parcel. The Executive Director informed all interested parties by mail of his determination on November 24, 2010. The Commission will consider the Executive Director's determination at the December 16, 2010 meeting in San Francisco. At that time, the Executive Director will report to the Commission any objection to the determination that is received within ten days of the posting of this notice. Anyone wishing to register an objection to the Executive Director's determination

DEL NORTE COUNTY LCP AMENDMENT (FLOOD DAMAGE PREVENTION) DNC-MIN-1-09 PAGE 3

that the proposed LCP amendment is "minor" should contact James R. Baskin at (707) 445-7833 at the Commission's North Coast District Office in Eureka by December 10, 2010.

If one-third of the appointed members of the Commission so requests, the Executive Director's determination that the proposed amendment is minor shall not become effective and the amendment shall be processed as a "major" LCP amendment consistent with Section 13555(b) of the Commission's regulations. In that event, staff recommends that the Commission direct staff to bring the proposed updated floodplain ordinance provisions back before the Commission as a "regular" LCP amendment before the current time extension for Commission's action on the amendment expires on October 14, 2011. If the Commission concurs with the Executive Director's determination that the LCP amendment is minor in nature, then the amendment shall take effect ten working days after the Commission meeting and notice to Del Norte County consistent with Section 30514(c) of the Coastal Act.

3. Staff Recommendation.

Staff recommends that the Commission concur with the Executive Director's determination that the LCP amendment is minor.

4. <u>Additional Information</u>.

For further information, please contact James R. Baskin at the North Coast District Office (707) 445-7833. Correspondence should be sent to the District Office at the above address.

EXHIBITS:

- 1. Excerpt, Title 21, Del Norte County Code Chapter 21.45 Flood Damage Prevention (showing amended text)
- 2. County Resolution No. 2009-033 Submittal of LCP Amendment Application
- 3. County Ordinance No. 2009-009 Flood Damage Prevention Ordinance Text Amendment

Chapter 21.45 FLOOD DAMAGE PREVENTION

Sections:

21.45.010 Statutory authorization, findings of fact, purpose and methods.

21.45.020 Definitions.

21.45.030 General provisions.

21.45.040 Administration.

21.45.050 Provisions for flood hazard reduction.

21.45.060 Variances.

21.45.070 Variance procedure.

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21.45.010 Statutory authorization, findings of fact, purpose and methods.

A. 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. Therefore, the Board of Supervisors of the County of Del Norte does ordain that Chapter 21.45 of this code is established as set out in this chapter.

B. Findings of Fact.

The flood hazard areas of Del Norte County are subject to periodic inundation which
results in loss of life and property, health and safety hazards, disruption of commerce
and governmental services, extraordinary public expenditures for flood protection and
relief and impairment of the tax base, all of which adversely affects the public health,
safety and general welfare.

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

C. Statement of Purpose. It is the purpose of this chapter 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:

1. To protect human life and health;

2. To minimize expenditure of public money for costly flood-control projects;

3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. To minimize prolonged business interruptions;

 To 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

To 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.

 To ensure that potential buyers are notified that property is in an area of special flood hazard; and Deleted: unit's

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EXHIBIT NO. 1

APPLICATION NO.

DNC-MIN-1-09 - DEL NORTE COUNTY LCP AMENDMENT

EXCERPT, TITLE 21, DEL NORTE CO. CODE – CH. 21.45 FLOOD DAMAGE PREVENTION (SHOWING AMENDED TEXT) (1 of 16)

- 8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:
 - 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;
 - 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - 3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
 - 4. Controlling filling, grading, dredging and other development which may increase flood damage; and
 - 5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 95-15 (part), 1995.)

21.45.020 Definitions.

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

"Accessory structure" means a structure that is either solely for the parking of no more than two cars; or a small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value, "Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

"Area of Special Flood Hazard" See "special flood hazard area."

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year (also called the "one-hundred-year flood"). For surfacewater runoff, known flood elevations of the 1964 flood shall be utilized as the base flood elevation when available or can be reasonably determined. Base flood is the term used throughout this ordinance.

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

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- A. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- B. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

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"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone VI-V30, VE, or V, "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.

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"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 1967.

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"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 the pouring of concrete pads), "Flood boundary and floodway map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazard and the floodway.

"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 FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of floodwaters, (2) the unusual and rapid accumulation or runoff of surface_waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works and floodplain management regulations.

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

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

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"Floodproofing" means any combination of structural and non-structural 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.

"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. These areas are designated by the Federal Insurance Administration. Also referred to as "regulatory floodway."

"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, but does not include long-term storage or related manufacturing facilities.

"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:

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- A. 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:
- B. 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:
- C. 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
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made 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.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

- A. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of 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:
 - 1. The flood openings standard in Section 21,45,050.A.3.c;
 - 2. The anchoring standards in Section 21.45.050.A.1;
 - 3. The construction materials and methods standards in Section 21.45.050.A.2: and
 - 4. The standards for utilities in Section 21.45.050.B.

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. For the purposes of this chapter, manufactured

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home and mobilehome are synonymous. 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 sale or rent.

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

"New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after the initial FIRM date of January 24, 1983, 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 initial FIRM date of January 24, 1983.

"One-hundred-year flood" means a flood which has a one percent annual probability of being equalled or exceeded. It is identical to the "base flood," which will be the term used throughout the chapter.

"Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

"Recreational vehicle" means a vehicle which is:

A. Built on a single chassis;

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- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Remedy a violation" means bring the structure or other development constructed after the effective date of the ordinance codified in this chapter into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damage, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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

"Sand dunes" mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Special flood hazard area (SFHA)" means an area having a flood level with a one percent or greater chance of being equalled or exceeded in any given year and/or an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE, V,

"Start of construction" 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 from the date of the permit. The actual start means either the first

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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, including a gas or liquid storage tank, that is principally aboveground, as well as 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 exceed fifty percent of the market value of the structure before the damage occurred.

"Substantial improvement means any reconstruction, rehabilitation, addition or other proposed new 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:

- A. 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
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided. (Ord. 95-15 (part), 1995.)

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21.45.030 General provisions.

A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the County of Del Norte.

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C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Board of Supervisors from taking such lawful action as is necessary to prevent or remedy any violation.

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

E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

- F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter 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 man-made or natural causes. This chapter 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 chapter shall not create liability on the part of the Board of Supervisors, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this ordinance, for any administrative decision lawfully made thereunder.
- G. Severability. This chapter and various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 95-15 (part), 1995)

21.45.040 Administration.

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A. Establishment of Development Permit. A development permit shall be obtained before <u>any</u> construction or <u>other</u> development, <u>including manufactured homes</u>, begins within any area of special flood hazards, established in Section 21.45.030B. Application for a development

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permit <u>shall be made on forms furnished by Del Norte County and may include</u>, but not be limited to plans in triplicate drawn to scale showing:

- 1. The nature, location, dimensions and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
- Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
- 3. Proposed locations of water supply, sanitary sewer, and other utilities:
- 4. Location of the regulatory floodway when applicable;
- 5. Base flood elevation information as specified in 21.45.030.B or 21.45.040.C.2;
- Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- 7. Proposed elevation in relation to mean sea level to which any structure will be floodproofed, as required in 21.45.050.A.3;
- 8. All appropriate certifications listed in subsection (C)(4) of this section; and
- Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- 10. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in 21.45.050.A.3.b.
- 11. For a crawl-space foundation, location and total net area of foundation openings as required in 21.45.050.3.c of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.B. Designation of the Floodplain Administrator. The Director of the Community Development Department is appointed to administer and implement this chapter by granting or denying development permits in accordance with its provisions.
- C. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the floodplain administrator shall include, but not be limited to:
 - 1. Permit Review.
 - Review all development permits to determine that the permit requirements of this chapter have been satisfied;
 - b. All other required state and federal permits have been obtained;
 - c. The site is reasonably safe from flooding;
 - d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but floodways have not been determined. For purposes of this chapter, "adversely affects" 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 one foot at any point within Del Norte County.

e. 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, 2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 21.45.030B, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source including but not limited to the 1964 flood elevation levels and the county drainage plan, in order to administer Section 21.45.050.

3. Whenever a watercourse is to be altered or relocated:

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- a. 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;
- b. Require that the flood-carrying capacity of the altered or relocated portion of the watercourse is maintained.
- 4. 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 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.

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.

5. Changes in corporate 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.

6. Obtain and maintain for public inspection and make available as needed:

- a. The certification required by Section 21.45.050(A)(3)(a) (lowest floor elevations);
- b. The certification required by Section 21.45.050(A)(3)(b) (elevation or floodproofing of nonresidential structures);
- c. The certification required by Section 21.45.050(A)(3)(c) (wet floodproofing standard);
- d. The certified elevation required by Section 21.45.050(C)(2), subdivisions and other proposed development standards;
- e. The certification required by Section 21.45.050(E)(1), floodway encroachments;
- f. The information required by Section 21.45.050(F)(6), coastal construction standards.
- 7. Map Determination 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 Section 21.45.070.
- 8. Take action to remedy violations of this chapter as specified in Section 21.45.030C. (Ord. 95-15 (part), 1995)
- 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.
- 10. Complete and submit the Biennial Report to the Federal Emergency Management Agency.

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11. Assure the community's General Plan is consistent with floodplain management objectives herein.

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21.45.050 Provisions for flood hazard reduction.

The county shall obtain, review, and reasonably utilize the best base flood data available from any source: federal, state or other, such as high water mark(s), floods of record, or private engineering reports, in order to administer this chapter. In areas of special flood hazard, the following standards apply:

- A. Standards of Construction. In all areas of special flood hazards the following standards are required:
 - Anchoring.
 - a. All new construction and substantial improvements of structures, including manufactured homes, 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 subsection D of this section.
 - Construction Materials and Methods.
 - a. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed with flood resistant materials and utility equipment resistant to flood damage for areas below base flood elevation.
 - b. All new construction and substantial improvements, including manufactured homes. shall be constructed using methods and practices that minimize flood damage.
 - c. All new construction and substantial improvements, including manufactured homes, 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 conditions of flooding.
 - All new construction and substantial improvements of structures, including manufactured homes, shall be constructed, within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

3. Elevation and Floodproofing.

a. New construction and substantial improvements of any structure shall have the lowest floor, including basement;

In AE. AH. A1-30 Zones, elevated to or above the base flood elevation.

- In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
- In an A zone, without BFE's specified on the FIRM (unnumbered A zone), elevated to or above the base flood elevation; as determined under Section 21.45.040.C.2.

Nonresidential structures may meet the standards in subsection (A)(3)(c) of this section. Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land

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surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

- b. Nonresidential construction shall either be elevated in conformance with subsection (A)(3)(a) of this section or together with attendant utility and sanitary facilities:
 - i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water,
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and
 - iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.
- c. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which 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 meet the following minimum criteria for non-engineered openings:

i. Have a minimum of two openings on different sides 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 floodwaters, and

Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter, or

Be certified by a registered professional civil engineer or architect.

- d. Manufactured homes shall also meet the standards in subsection D of this section.
- 4. Garages and low cost accessory structures.
 - a. Attached Garages

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- A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 21.45.050.A.3.c. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 21.45.050.A.2.
- A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
- b. Detached garages and accessory structures.
 - "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 21.45.020, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements"

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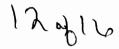
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- 1) Use of the accessory structure must be limited to parking or limited storage;
- 2) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
- 3) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
- 4) Any mechanical and utility equipment in the accessory structure must e elevated or floodproofed to or above the BFE;
- 5) The accessory structure must comply with floodplain encroachment provisions in Section 21.45.050.E; and
- 6) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 21.45.050.A.3.c.
- Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 21.45.050.A.
- B. Standards for Utilities.
 - 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.
 - 2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- C. Standards for Subdivisions with Areas of Special Flood Hazard.
 - All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
 - 2. All final subdivision plans will provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood elevation, the lowest floor elevation, the pad elevation, and the lowest adjacent grade 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.
 - 3. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
 - 4. All subdivision proposals <u>and other proposed development</u> shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - 5. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.
- D. Standards for Manufactured Homes. All new and replacement manufactured homes and additions to manufactured homes shall:
 - 1. Be elevated so that the lowest floor is at or above the base flood elevation; and
 - Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement;
 - 3. Be installed using methods and practices which minimize flood damage. These regulations are in addition to applicable state and local requirements.

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4. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 21.45.050.F.

5. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within 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 Section 21.45.050.D will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

- a. Lowest floor of the manufactured home is at or above the base flood elevation; or
- Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

- E. Floodways. Located within areas of special flood hazard established in Section 21.45.030B 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:
 - 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 flood levels during the occurrence of the base flood discharge;
 - 2. If subsection (E)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.
 - F. Coastal High Hazard Areas. Within coastal high hazard areas established in Section 21.45.030B, the following standards shall apply:
 - 1. 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 shall be those required by applicable state or local building standards.
 - 2. All new construction and other development shall be located on the landward side of the reach of mean high tide.
 - 3. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 21.45.020. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

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- 4. Fill shall not be used for structural support of buildings.
- Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
- 6. The floodplain administrator shall obtain and maintain the following records:
 - a. Certification by a registered engineer or architect that a proposed structure complies with subsection (F)(1) of this section;
 - b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

G. Standards for Recreational Vehicles.

- 1. All recreational vehicles placed on sites within Zones A. A1-30, AH, and AE on the community's Flood Insurance Rate Map will either:
 - a. Be on the site fewer than one hundred eighty consecutive days, and 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
 - b. Meets the permit requirements of Section 21.45.040 of this chapter and the elevation and anchoring requirements for manufactured homes in subsection D of this section.
- 2. 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 subsections (F) and (G) (1) of this section. (Ord. 95-15 (part), 1995)

21.45.060 Variances.

The issuance of a variance pursuant to this section is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. Variance requests regarding zoning criteria and the hearing and notice process to be followed for this section are to be in conformance with Chapters 20.54 and 21.50D (Variances) of this code. This section establishes the criteria the county shall use to examine a variance request from the provisions of this chapter and to approve or disapprove such request.

The variance criteria set forth in this section of the ordinance are based on the general principle of 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 ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be 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 Board of Supervisors of the County of Del Norte to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below 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

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variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be property granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. A. Variances shall only be issued upon:

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1. A showing of good and sufficient cause;

- 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization to the public, or conflict with existing local laws or ordinances.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of <u>historic</u> structures, as <u>defined in Section 21.45.020</u>, without regard to the procedures set forth in the remainder of this section.
- C. Variances shall not be issued within any designated 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.
- E. Variances granted to construct the lowest living floor below the base flood elevation will require the county to inform the applicant in writing that granting of such variance will increase the cost of flood insurance commensurate with the increased risk resulting from the lower elevation.
- F. Variances granted shall be in a written form and a copy of such variance and the accompanying written report shall be forwarded to the Federal Administrator. (Ord. 95-15 (part), 1995)

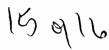
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21.45.070 Variance procedure.

A. Appeal Board.

- The board of supervisors of the county shall hear and decide appeals and requests for variances from the requirements of this chapter. Variance requests are to be in conformance with Chapters 20.54 and 21.50D of this code.
- 2. The county shall hear and decide appeals when it is alleged there is an error in any requirements, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- 3. In passing upon such applications, the county shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

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- The safety of access to the property in time of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
- k. 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 system, and streets and bridges.
- 4. Generally, variances may be issued for new construction and substantial improvements 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 subsections (A)(3)(a) through (k) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- 5. Upon consideration of the factors of subsection (A)(3) of this section and the purposes of this chapter, the county may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- 6. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.
- B. Conditions for Variances.
 - 1. Variances may be issued for the reconstruction, rehabilitation or restoration of <u>historic</u> structures, as defined in Section 21.45.020, without regard to the procedures set forth in the remainder of this section.
 - 2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 4. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
 - 5. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (B)(1) through (4) 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.
 - 6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain board in the office of the county recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. (Ord. 95-15 (part), 1995)

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BOARD OF SUPERVISORS COUNTY OF DEL NORTE STATE OF CALIFORNIA

EXHIBIT NO. 2

APPLICATION NO.

DNC-MIN-1-09 - DEL NORTE COUNTY LCP AMENDMENT COUNTY RESOLUTION NO. 2000-033-SUBMITTAL OF LCP AMENDMENT APPLICATION (1 of 2)

RESOLUTION NO. 2009 - 033

A RESOLUTION OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS SUBMITTING A LOCAL COASTAL PLAN AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION REVIEW.

WHEREAS, on February 1, 1984, the California Coastal Commission certified the Del Norte County Local Coastal Plan; and

WHEREAS, the Del Norte County Board Local Coastal Plan provides for amendments to the Local Coastal Plan; and

WHEREAS, the Board of Supervisors have held public hearings and considered requests to amend the Local Coastal Plan including the Land Use Plan and the implementing Title 21 Coastal Zoning; and

WHEREAS, the requests for amendment have been reviewed and processed pursuant to the provisions of the Local Coastal Plan and Title 21 (Coastal Zoning); and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) an environmental document has been prepared and circulated for each request in compliance with CEQA which the Board has determined as adequate for each request; and

WHEREAS, the Board of Supervisors now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County and amends the Local Coastal Program as follows:

- R0705C/GPA0703C Hogberg Amending Coastal zoning map C-9 from RRA-2-MFH to RRA-1-MFH and General Plan Amendment from Rural Residential Two Acre Minimum Lot Size to Rural Residential One Acre Minimum Lot Size.
- 2. R0903C Del Norte County Amendment to Title 21 Zoning Chapter 21.45 Flood Damage Prevention.
- 3. Del Norte County Ordinance Amending Title 21 Zoning Chapter 21.46 General Provisions Section 21.46.070 Height Restrictions.

WHEREAS, the proposed amendments are consistent with the provision of the Coastal Act of 1976, the Del Norte County Local Coastal Plan and are intended to be carried out in a manner in conformity with the Coastal Act and the implementing Local Coastal Plan.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

- 1. The above listed and described changes are hereby approved and adopted as amendments to the Del Norte County Local Coastal Plan.
- 2. The Board of Supervisors of the County of Del Norte directs and authorizes that the above listed amendments are within the California Coastal Zone and are to be transmitted to the Coastal Commission for its review and certification for the unincorporated area of the County.
- 3. The Chair of this Board is hereby authorized and directed to sign and certify all maps, documents, and other materials and to take other necessary steps in accordance with this Resolution to reflect the above described action by the Board of Supervisors.

4. These amendments shall take effect and be enforced thirty (30) days after the date of the passage of the companion ordinance, and after approval of the amendment by the Coastal Commission, whichever is later.

PASSED AND ADOPTED this $\frac{9}{2}$ th day of $\frac{1}{2}$ 1009, by the following polled vote of the Board of Supervisors of the County of Del Norte.

AYES: Supervisors McNamer, McClure, Sullivan, Finigan, Hemmingsen

NOES: None

ABSTAIN:

None

ABSENT:

None

Gerry Hemmingsen, Chair

Del Norte County Board of Supervisors

Jeremi Ruiz, Clerk of the Board of Supervisors County of Del Norte, State of California

Date: 4-09-09

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

Chark of the Board

1			EXHIBIT NO. 3						
2		BOARD OF SUPERVISORS	APPLICATION NO.						
3		COUNTY OF DEL NORTE	DNC-MIN-1-09 - DEL NORTE						
4		STATE OF CALIFORNIA	COUNTY LCP AMENDMENT COUNTY ORDINANCE NO.						
5			2009-009 - FLOOD DAMAGE						
6		ORDINANCE NO. 2009- <i>ひ</i> 09	PREVENTON ORDINANCE						
7			TEXT AMENDMENT (1 of 17)						
8	AN ORDINANCE OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS								
9	AMENDING CHAPTER 21.45 BY REPLACING THE CHAPTER IN ITS ENTIREITY								
10	WITH A NEW CHAPTER 21.45 OF THE DEL NORTE COUNTY CODE								
11									
12									
13	Th	e Board of Supervisors of the County of Del Norte do ordain as follow	WG.						
	111	e Board of Supervisors of the County of Ber Norte do ordain as follow	¥3.						
14	e E	CTION 1. Chapter 21.45, Title 21, of Del Norte County Code is delet	red and there is						
15		•	eu anu mere is						
16	Su	ostituted the following:							
17	C.	4 . 01 46							
18		apter 21.45							
19	FL	OOD DAMAGE PREVENTION							
20									
21	Sec	tions:							
22		21.45.010 Statutory authorization, findings of fact, purpose and method	S.						
23	21.45.020 Definitions.								
24		21.45.030 General provisions.							
25		21.45.040 Administration.							
26		21.45.050 Provisions for flood hazard reduction.							
27		21.45.060 Variances.							
28		21.45.070 Variance procedure.							
29									
30									
31	21.	45.010 Statutory authorization, findings of fact, purpose and methods.							
32	A.	Statutory Authorization. The Legislature of the state of California has in G	overnment Code						
33		Sections 65302, 65560 and 65800 conferred upon local governments the							
34		regulations designed to promote the public health, safety and general welfa							
35		Therefore, the Board of Supervisors of the County of Del Norte does ordai	•						
36		21.45 of this code is established as set out in this chapter.							
	Ъ	•							
37	В.	Findings of Fact.	1 1						
38		1. The flood hazard areas of Del Norte County are subject to periodic inu							
39		results in loss of life and property, health and safety hazards, disruption							
40		and governmental services, extraordinary public expenditures for flood	*						
41		relief and impairment of the tax base, all of which adversely affects the	public health,						
42		safety and general welfare.							

2. These flood losses are caused by uses that are inadequately elevated, floodproofed, or

flood hazards which increase flood heights and velocities also contributes to flood

protected from flood damage. The cumulative effect of obstructions in areas of special

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losses.

- C. Statement of Purpose. It is the purpose of this chapter 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:
 - 1. To protect human life and health;

- 2. To minimize expenditure of public money for costly flood-control projects;
- 3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4. To minimize prolonged business interruptions;
- 5. To 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. To 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. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- 8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:
 - 1. 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;
 - 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - 3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
 - 4. Controlling filling, grading, dredging and other development which may increase flood damage; and
 - 5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

21.45.020 Definitions.

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

"Accessory structure" means a structure that is either solely for the parking of no more than two cars; or a small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value. "Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

"Area of Special Flood Hazard" See "special flood hazard area."

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year (also called the "one-hundred-year flood"). For surfacewater runoff, known flood elevations of the 1964 flood shall be utilized as the base flood elevation when available or can be reasonably determined. Base flood is the term used throughout this ordinance.

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

all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by floodwaters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

- A. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
- B. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V. "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.

"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 1967.

"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 the pouring of concrete pads). "Flood boundary and floodway map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazard and the floodway.

"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 FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of floodwaters, (2) the unusual and rapid accumulation or runoff of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

"Floodplain managen. " means the operation of an overall productive and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood-control works and floodplain management regulations.

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

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

"Floodproofing" means any combination of structural and non-structural 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.

"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. These areas are designated by the Federal Insurance Administration. Also referred to as "regulatory floodway."

"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, but does not include long-term storage or related manufacturing facilities.

"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:

- A. 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;
- B. 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;
- C. 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
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made 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.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

- A. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of 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:
 - 1. The flood openings standard in Section 21.45.050.A.3.c;

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- 3. The construction materials and methods standards in Section 21.45.050.A.2; and
- 4. The standards for utilities in Section 21.45.050.B.

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. For the purposes of this chapter, manufactured home and mobilehome are synonymous. 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 sale or rent.

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

"New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after the initial FIRM date of January 24, 1983, 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 initial FIRM date of January 24, 1983.

"One-hundred-year flood" means a flood which has a one percent annual probability of being equalled or exceeded. It is identical to the "base flood," which will be the term used throughout the chapter.

"Person" means an individual or his agent, firm, partnership, association or corporation, or agent of the aforementioned groups, or this state or its agencies or political subdivisions.

"Recreational vehicle" means a vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projection;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Remedy a violation" means bring the structure or other development constructed after the effective date of the ordinance codified in this chapter into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damage, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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

"Sand dunes" mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Special flood hazard area (SFHA)" means an area having a flood level with a one percent or

greater chance of being c_.alled or exceeded in any given year anc_. an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE, V.

"Start of construction" 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 from the date of the permit. 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, including a gas or liquid storage tank, that is principally aboveground, as well as 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 exceed fifty percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition or other proposed new 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:

- A. 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
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in

21.45.030 General provisions.

- A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the County of Del Norte.
- B. 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 September 26, 2008, with accompanying Flood Insurance Rate Maps (FIRMs) with a Map Index dated September 26, 2008, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the board of supervisors by the floodplain administrator. The study and FIRM are on file at 981 H Street, Suite 110, Crescent City, California 95531.
- C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the Board of Supervisors from taking such lawful action as is necessary to prevent or remedy any violation.
- D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
 - E. Interpretation. In the interpretation and application of this chapter, all provisions shall be:
 - 1. Considered as minimum requirements;
 - 2. Liberally construed in favor of the governing body; and
 - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter 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 man-made or natural causes. This chapter 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 chapter shall not create liability on the part of the Board of Supervisors, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this ordinance, for any administrative decision lawfully made thereunder.
- G. Severability. This chapter and various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

21.45.040 Administration.

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- A. Establishment of Development Permit. A development permit shall be obtained before any construction or other development, including manufactured homes, begins within any area of special flood hazards, established in Section 21.45.030B. Application for a development permit shall be made on forms furnished by Del Norte County and may include, but not be limited to plans in triplicate drawn to scale showing:
 - 1. The nature, location, dimensions and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 - 2. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - 3. Proposed locations of water supply, sanitary sewer, and other utilities;
 - 4. Location of the regulatory floodway when applicable;
 - 5. Base flood elevation information as specified in 21.45.030.B or 21.45.040.C.2;
 - 6. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - 7. Proposed elevation in relation to mean sea level to which any structure will be floodproofed, as required in 21.45.050.A.3;
 - 8. All appropriate certifications listed in subsection (C)(4) of this section; and
 - 9. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - 10. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in 21.45.050.A.3.b.
- 11. For a crawl-space foundation, location and total net area of foundation openings as required in 21.45.050.3.c of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.B. Designation of the Floodplain Administrator. The Director of the Community Development
- Department is appointed to administer and implement this chapter by granting or denying development permits in accordance with its provisions.
- C. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the floodplain administrator shall include, but not be limited to:
 - 1. Permit Review.
 - a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
 - b. All other required state and federal permits have been obtained;
 - c. The site is reasonably safe from flooding;
 - d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but floodways have not been determined. For purposes of this chapter, "adversely affects" 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 one foot at any point within Del Norte County.
- e. 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. Use of Other Base Flood Data. When base flood elevation data has not been provided in
- accordance with Section 21.45.030B, the floodplain administrator shall obtain, review and
- reasonably utilize any base flood elevation and floodway data available from a federal, state or

376 plan, in order to administer Section 21.45.050. 377 3. Whenever a watercourse is to be altered or relocated: 378 379 380 to the Federal Insurance Administration; 381 382 watercourse is maintained. 383 384 385 386 387 Revision (LOMR). 388 389 390 391 392 393 394 395 requirements are based on current data. 396 397 398

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other source including bu st limited to the 1964 flood elevation l. Is and the county drainage

- a. 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
- b. Require that the flood-carrying capacity of the altered or relocated portion of the
- 4. 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
 - b. 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.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management

- 5. Changes in corporate 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.
- 6. Obtain and maintain for public inspection and make available as needed:
 - a. The certification required by Section 21.45.050(A)(3)(a) (lowest floor
 - b. The certification required by Section 21.45.050(A)(3)(b) (elevation or floodproofing of nonresidential structures);
 - c. The certification required by Section 21.45.050(A)(3)(c) (wet floodproofing standard);
 - d. The certified elevation required by Section 21.45.050(C)(2), subdivisions and other proposed development standards;
 - e. The certification required by Section 21.45.050(E)(1), floodway encroachments;
 - f. The information required by Section 21.45.050(F)(6), coastal construction
- 7. Map Determination. 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 Section 21.45.070.
- 8. Take action to remedy violations of this chapter as specified in Section 21.45.030C.
- 9. 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.

- 10. Complete and __omit the Biennial Report to the Federal __nergency Management 422 Agency. 423 11. Assure the community's General Plan is consistent with floodplain management 424 objectives herein. 425 426 21.45.050 Provisions for flood hazard reduction. 427 The county shall obtain, review, and reasonably utilize the best base flood data available from 428 any source: federal, state or other, such as high water mark(s), floods of record, or private 429 engineering reports, in order to administer this chapter. In areas of special flood hazard, the 430 following standards apply: 431 A. Standards of Construction. In all areas of special flood hazards the following standards are 432 required: 433 1. Anchoring. 434 a. All new construction and substantial improvements of structures, including 435 manufactured homes, shall be adequately anchored to prevent flotation, collapse or 436 lateral movement of the structure resulting from hydrodynamic and hydrostatic loads. 437 including the effects of buoyancy. 438 b. All manufactured homes shall meet the anchoring standards of subsection D of this 439 section. 440 2. Construction Materials and Methods. 441 442 443
 - a. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed with flood resistant materials and utility equipment resistant to flood damage for areas below base flood elevation.
 - b. All new construction and substantial improvements, including manufactured homes, shall be constructed using methods and practices that minimize flood damage.
 - c. All new construction and substantial improvements, including manufactured homes, 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 conditions of flooding.
 - d. All new construction and substantial improvements of structures, including manufactured homes, shall be constructed, within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
 - 3. Elevation and Floodproofing.

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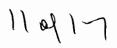
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- a. New construction and substantial improvements of any structure shall have the lowest floor, including basement:
 - In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
 - In an AO zone, elevated above the highest adjacent grade to a height equal to ii. or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 feet above the highest adjacent grade if no depth number is specified.
 - In an A zone, without BFE's specified on the FIRM (unnumbered A zone), iii. elevated to or above the base flood elevation; as determined under Section 21.45.040.C.2.

Nonresidential structures may meet the standards in subsection (A)(3)(c) of this section. Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land

surveyor, an verified by the community building ins, tor to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

- b. Nonresidential construction shall either be elevated in conformance with subsection (A)(3)(a) of this section or together with attendant utility and sanitary facilities:
 - i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water,
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and
 - iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the floodplain administrator.
- c. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which 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 meet the following minimum criteria for non-engineered openings:
 - i. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters, and
 - iv. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter, or
 - v. Be certified by a registered professional civil engineer or architect.
- d. Manufactured homes shall also meet the standards in subsection D of this section.
- 4. Garages and low cost accessory structures.
 - a. Attached Garages
 - i. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 21.45.050.A.3.c. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 21.45.050.A.2.
 - ii. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
 - b. Detached garages and accessory structures.
 - i. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 21.45.020, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements"
 - Use of the accessory structure must be limited to parking or limited storage;



516 517	2) The ortions of the accessory structure local below the BFE must be built using flood-resistant materials;				
518 519	 The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement; 				
520 521	4) Any mechanical and utility equipment in the accessory structure must e elevated or floodproofed to or above the BFE;				
522 523	5) The accessory structure must comply with floodplain encroachment provisions in Section 21.45.050.E; and				
524 525	6) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 21.45.050.A.3.c.				
526	ii. Detached garages and accessory structures not meeting the above				
527 528	standards must be constructed in accordance with all applicable standards in Section 21.45.050.A.				
529					
530	B. Standards for Utilities.				
531	1. All new and replacement water supply and sanitary sewage systems shall be designed				
532	to minimize or eliminate infiltration of floodwaters into the system and discharge				
533	from systems into floodwaters.				
534	2. On-site waste disposal systems shall be located to avoid impairment to them or				
535	contamination from them during flooding.				
536	C. Standards for Subdivisions with Areas of Special Flood Hazard.				
537	1. All preliminary subdivision proposals shall identify the flood hazard area and the				
538	elevation of the base flood.				
539	2. All final subdivision plans will provide the elevation of proposed structure(s) and				
540	pads. If the site is filled above the base flood elevation, the lowest floor elevation, the				
541	pad elevation, and the lowest adjacent grade as-built information for each structure				
542	shall be certified by a registered civil engineer or licensed land surveyor and provided				
543	as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the				
544	floodplain administrator.				

the need to minimize flood damage.

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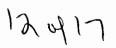
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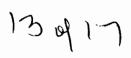
- (LOMR-F) to the 3. All subdivision proposals and other proposed development shall be consistent with
- 4. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- 5. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.
- D. Standards for Manufactured Homes. All new and replacement manufactured homes and additions to manufactured homes shall:
 - 1. Be elevated so that the lowest floor is at or above the base flood elevation; and
 - 2. Be securely anchored to a permanent foundation system to resist flotation, collapse or lateral movement;
 - 3. Be installed using methods and practices which minimize flood damage. These regulations are in addition to applicable state and local requirements.
 - 4. Within Zones V1-30, V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Section 21.45.050.F.
 - 5. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE,



- V1-30, and VE on the community's Flood Instance Rate Map that are not subject to the provisions of Section 21.45.050.D will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
- a. Lowest floor of the manufactured home is at or above the base flood elevation; or
- b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

- E. Floodways. Located within areas of special flood hazard established in Section 21.45.030B 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:
 - 1. 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 flood levels during the occurrence of the base flood discharge;
 - 2. If subsection (E)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of this section.
- F. Coastal High Hazard Areas. Within coastal high hazard areas established in Section 21.45.030B, the following standards shall apply:
 - 1. 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 shall be those required by applicable state or local building standards.
 - 2. All new construction and other development shall be located on the landward side of the reach of mean high tide.
 - 3. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 21.45.020. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
 - 4. Fill shall not be used for structural support of buildings.
 - 5. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
 - 6. The floodplain administrator shall obtain and maintain the following records:
 - a. Certification by a registered engineer or architect that a proposed structure



- complie ith subsection (F)(1) of this section;
- b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.
- G. Standards for Recreational Vehicles.
 - 1. All recreational vehicles placed on sites within Zones A, A1-30, AH, and AE on the community's Flood Insurance Rate Map will either:
 - a. Be on the site fewer than one hundred eighty consecutive days, and 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
 - b. Meets the permit requirements of Section 21.45.040 of this chapter and the elevation and anchoring requirements for manufactured homes in subsection D of this section.
 - 2. 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 subsections (F) and (G) (1) of this section.

21.45.060 Variances.

The issuance of a variance pursuant to this section is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. Variance requests regarding zoning criteria and the hearing and notice process to be followed for this section are to be in conformance with Chapters 20.54 and 21.50D (Variances) of this code. This section establishes the criteria the county shall use to examine a variance request from the provisions of this chapter and to approve or disapprove such request.

The variance criteria set forth in this section of the ordinance are based on the general principle of 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 ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be 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 Board of Supervisors of the County of Del Norte to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below 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 ordinance are more detailed and contain multiple provisions that must be met before a variance can be property granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. A. Variances shall only be issued upon:

1. A showing of good and sufficient cause;



BOOK PAGE

- 2. A determination . failure to grant the variance would re. in exceptional hardship to the applicant;
 - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization to the public, or conflict with existing local laws or ordinances.
 - B. Variances may be issued for the reconstruction, rehabilitation or restoration of historic structures, as defined in Section 21.45.020, without regard to the procedures set forth in the remainder of this section.
- C. Variances shall not be issued within any designated 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.
 - E. Variances granted to construct the lowest living floor below the base flood elevation will require the county to inform the applicant in writing that granting of such variance will increase the cost of flood insurance commensurate with the increased risk resulting from the lower elevation.
- F. Variances granted shall be in a written form and a copy of such variance and the accompanying written report shall be forwarded to the Federal Administrator.

21.45.070 Variance procedure.

A. Appeal Board.

- 1. The board of supervisors of the county shall hear and decide appeals and requests for variances from the requirements of this chapter. Variance requests are to be in conformance with Chapters 20.54 and 21.50D of this code.
- 2. The county shall hear and decide appeals when it is alleged there is an error in any requirements, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- 3. In passing upon such applications, the county shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site; and
 - k. 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 system, and streets and bridges.

- 4. Generally, varianc hay be issued for new construction and extantial improvements 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 subsections (A)(3)(a) through (k) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- 5. Upon consideration of the factors of subsection (A)(3) of this section and the purposes of this chapter, the county may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- 6. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.
- B. Conditions for Variances.

- 1. Variances may be issued for the reconstruction, rehabilitation or restoration of historic structures, as defined in Section 21.45.020, without regard to the procedures set forth in the remainder of this section.
- 2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 4. Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- 5. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (B)(1) through (4) 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.
- 6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. A copy of the notice shall be recorded by the floodplain board in the office of the county recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- **SECTION 2**. Classification. This ordinance is considered of a general and permanent nature and is classified as a codified ordinance.
- **SECTION 3.** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the Board of Supervisors intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

750 751 752 753 754	SECTION 4. This ordinance shall become effective 31 days following its final passage and adoption and after approval of the amendment by the Coastal Commission, whichever is later.							
755 756	PASSED AND ADOPTED this day of May, , 2009 by the Board of Supervisors of the County of Del Norte by the following polled vote:							
757	Supervisors of the County of Definione by the following polled vote:							
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Date: 5-26-69

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

Clerk of the Board

Ву:____