

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT
1385 EIGHTH STREET, SUITE 130
ARCATA, CA 95521
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North Coast District Deputy Director's Report for November 2021

Prepared December 10, 2021 (for the December 16, 2021 Hearing)

To: Commissioners and Interested Parties
From: Kate Huckelbridge, North Coast District Deputy Director

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, emergency CDPs, and determinations regarding local government acceptance of modifications for LCP certification for the North Coast District Office are being reported to the Commission on December 16, 2021. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's North Coast District Office in Arcata. Staff is asking for the Commission's concurrence on the waivers, immaterial amendments, and time extensions. The other items are presented for the Commission's information. Staff will report any objections received and any other relevant information on these items to the Commission when it considers the North Coast District Deputy Director's report on December 16th.

With respect to the December 16th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

Items being reported on December 16, 2021 (see attached)**Waivers**

- 1-21-0548-W, Humboldt County – Clam Beach Accessible Beach Mat (Clam Beach County Park, Humboldt Co.)

Immaterial Amendments

- 1-20-0422-A2, Caltrans – Dr. Fine Bridge Replacement (Hwy 101, Del Norte Co.)
- 1-07-038-A1, Caltrans - Fortuna Median Safety Improvements (Hwy 101 Between Alton and Loleta (Humboldt Co.))

Determinations on Local Govt. Acceptance of Modifications for LCP Certification

- Mendocino Co. LCP Amend. No. LCP-1-MEN-20-0021-1 (Accessory Dwelling Units)

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NOTICE OF PROPOSED PERMIT WAIVER

Date: December 10, 2021

To: All Interested Parties

From: Bob Merrill, North Coast District Manager
Catherine Holloway, Coastal Planner

Subject: **Coastal Development Permit (CDP) Waiver 1-21-0548-W**

Applicant: County of Humboldt Administrative Office (Attn: Travis Smith)

Location: Clam Beach County Park, northern day-use access point, off of Clam Beach Drive, west of U.S. Highway 101 and McKinleyville, Humboldt County (APNs: 513-161-01 & -06)

Proposed Development

Install 783 linear feet of five-foot-wide recycled polyester accessible beach mats (in 33 and 50-foot segments) from the northern day-use access point parking lot to the wave slope.

Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the Applicant regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed recycled polyester beach mats will be placed between the existing paved parking lot and the sandy beach above the high tide line (above the wrack line) to facilitate public access to the shoreline for pedestrians, wheelchair users, strollers, and other mobility-impaired users. The mats will be installed along an existing flat sandy path and outside of environmentally sensitive habitat areas. The proposed installation and use of the access mats will not impact adjacent dune or marine habitats as: (a) the mats will be installed and removed when needed by hand without any major vegetation removal, heavy equipment use, or grading; (b) the mats are designed to allow sand to move through the permeable structure of the mat and are easily swept clean if sand does accumulate on the mats; and (c) the mats closest to the wave slope will be installed in shorter (33-foot-long) sections designed for easy removal if needed prior to forecasted storm surge events. The county plans to monitor the mats through regular visual inspections and will perform maintenance as required, which may include replacing portions of the mats if damaged and periodic sweeping if sand accumulates

on top of the mats. The proposed access mats will be colored brown to blend in with the natural landscape. Therefore, the proposed project will not adversely affect coastal resources or public access and is consistent with all applicable Chapter 3 policies of the Coastal Act.

Procedural Note

The project site is bisected by the boundary between the Commission's retained jurisdiction and Humboldt County's certified LCP jurisdiction. The Applicant, the County, and the Executive Director have agreed to the processing of a consolidated CDP application by the Commission pursuant to Coastal Act Section 30601.3(a)(2).

Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission and the site of the proposed development has been appropriately noticed, pursuant to sec. 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. **This waiver is proposed to be reported to the Commission on Thursday, December 16, 2021.** If four or more Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING.

As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

If you have any questions about the proposal or wish to register an objection, please contact Catherine Holloway in the North Coast District office at catherine.holloway@coastal.ca.gov.

cc: Humboldt County Planning & Building Dept

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NOTICE OF PROPOSED PERMIT AMENDMENT

Date: December 2, 2021

To: All Interested Parties

From: Bob Merrill, North Coast District Manager
Tamara Gedik, Coastal Program Analyst

Subject: Amendment to Coastal Development Permit (CDP) 1-20-0422
Applicant: California Department of Transportation (Caltrans),
District 1, Attn.: Rachelle Hadley

Location: Highway 101 at Dr. Fine Bridge, between Lake Earl Drive at post mile (PM) 35.8 and Fred D. Haight Drive at PM 36.5; with associated development on Assessor Parcel Numbers (APNs) 105-020-14 and 105-020-20; 105-700-01; 105-020-36; 105-020-87; 105-260-14; 105-070-04, Del Norte County.

Original CDP Approval

The original permit was approved in January 2021 to replace the Dr. Fine Bridge with a two-lane structure that would meet current design standards and demands.

Proposed CDP Amendment

Permit Amendment No. 1-20-0422-A2 would: 1) modify Special Condition Nos. 9A(vi) and 10A(iv) to eliminate timing restrictions specified for reseeding bare soil areas while using other best management practices; (2) eliminate the upper limits of daily pile driving strikes specified in Special Condition No. 14B(vi), if sound thresholds are not exceeded; (3) modify Special Condition No. 30G to authorize limited work at specified temporary stream crossings during the "wet season" (outside of the June 15th to October 15th work window); (4) authorize installation of approximately 389 feet of Midwest Guardrail System (MGS) railing along the southbound shoulder of Highway 101 at its intersection with Lake Earl Drive; and (5) authorize minor changes including: (a) relocating an overside drain on Lake Earl Drive, (b) installing temporary slated fence on APN # 105-700-001 versus Temporary High Visibility Fencing (THVF); (c) installing vegetation control under guardrail on Lake Earl Drive and US 101, and southwest of the bridge; and (d) demolishing USGS shed along the northeast side of bridge.

See Attachment A for the proposed changes to the above conditions.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

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As depicted in Attachment A, changes to Special Condition Nos. 9A(vi) and 10A(iv) would eliminate conflicts with other timing limitations of CDP 1-20-0422 as amended, while continuing to ensure protection of water quality by implementing best management practices and reseeded bare soil areas prior to the onset of the rainy season.

Changes to Special Condition No. 14B(vi) would eliminate limitations on the number of piles driven per day but would not result in any additional exceedance of cumulative sound thresholds or impacts to fish than were evaluated in the Commission's approval of CDP 1-20-0422. The Commission's conditional approval of CDP 1-20-0422 acknowledged that in order to complete in-water construction work within three seasons, all pile driving will occur within the first in-water construction season, which will cause exceedance of cumulative sound thresholds for impact pile driving within close proximity to the pile driving, resulting in injury and take (mortality) of juvenile salmonids. However, limiting construction to three in-water seasons with this one-year sound exceedance would avoid a fourth year of injury and take to aquatic species, which the resource agencies believe would result in greater injury and take overall of juvenile salmonids and other aquatic species. The approved project includes mitigation measures that minimize the adverse environmental effects of impacts on fish species and their habitat associated with the proposed bridge replacement project, consistent with Coastal Act section 30233.

Caltrans had initially proposed the limitation of six pile strikes per day based upon assumptions in its hydroacoustic analysis of the point at which sound thresholds occurring at various distances from pile strike locations would be exceeded. Special Condition Nos. 15 and 16 of CDP 1-20-0422 establish requirements for hydroacoustic monitoring and sound threshold criteria in compliance with the "Terms and Conditions," "Reporting Requirements," and "Conservation Recommendations" specified in the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service's Biological Opinion letter of March 19, 2020, attached as [Exhibit 15](#) of the staff report for Coastal Development Permit 1-20-0422. In a revised Biological Opinion dated February 1, 2021, National Marine Fisheries Service (NMFS) determined the following:

During impact pile driving and demolition activities (hoe ram operations), hydroacoustic monitoring would ensure that pile driving stops in a given day before sound levels reach the cumulative injury thresholds at the predicted attenuation distances.

NMFS has agreed that driving additional piles won't necessarily change the effects if the thresholds are not being met within areas of anticipated fish injury or kill. Furthermore, Special Condition 16 as approved under CDP 1-20-0422 requires preparation and implementation of a hydroacoustic monitoring plan that would require pile driving to stop and deployment of additional sound attenuation measures if sound levels exceed injury thresholds outside of the expected area of impact.

Changes to Special Condition No. 30G would authorize limited work at specified

Coastal Development Permit (CDP) Amendment 1-20-0422-A2

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temporary stream crossings during the “wet season” (outside of the June 15th to October 15th work window). In order to complete in-water construction work within three seasons, Caltrans requests to conduct some work on the north bank detour abutment (access would be needed) and work within the smaller drainages above the Ordinary High Water Mark of the Smith River. Several BMPs have been included to prevent erosion and sedimentation of coastal waters and wetlands. Additionally, following the Commission’s approval of CDP 1-20-0422, Commission staff received the final Lake and Streambed Alteration Agreement (LSAA) dated April 16, 2021 and entered into between CA Department of Fish and Wildlife (CDFW) and Caltrans. The LSAA grants approval of certain specified work within the “wet season” subject to Caltrans’ submittal of a Natural Resources Protection Plan (NRPP) for CDFW approval, and implementation of wet weather provisions specified in the LSAA that have been incorporated into Special Condition 30G as modified and depicted in Attachment A. For example, when it is forecasted to rain, ground disturbing activities will be halted and erosion control/BMPs will be implemented near the stream channels and/or in and around wetland/riparian areas, as applicable. Additionally, the NRPP will contain monitoring criteria for potential river level rise that could come into contact with construction activities, and an action plan on how all equipment and construction material, excavations will be removed or protected prior to rain events. The changes to time of year operations would not result in any additional impacts to coastal wetlands and waters beyond those considered by the Commission in its evaluation and approval of CDP 1-20-0422.

Changes involving the installation of temporary slated fencing and Midwest Guardrail System (MGS) railing along the southbound shoulder of Highway 101 at its intersection with Lake Earl Drive have been requested by the adjacent property owner to maintain their privacy during construction activities and to protect their property from vehicular run off road incidents, respectively. Modifications to the project components are depicted in revised Layout Sheets L-1 and L-2 with revision date of January 26, 2021. The proposed fencing, MGS railing, relocated overside drain, guardrail vegetation control, and shed demolition will all occur in upland areas outside of wetlands and other ESHAs. Caltrans has also prepared a visual impact analysis demonstrating that the proposed changes would not adversely affect coastal views.

As the amended development does not have a potential for adverse impacts, either individually or cumulatively on coastal resources or public access, the Executive Director has determined that the proposed amendment is immaterial.

Coastal Commission Review Procedure

The CDP may be amended as proposed if no written objections are received in the North Coast District office within ten working days of the date of this notice. In addition to the regular means required by the regulations or statute, please make sure that you also send a copy of all correspondence or other documents electronically to NorthCoast@coastal.ca.gov. If such an objection is received, the objection and the Executive Director’s response to it will be reported to the Commission at its meeting on Thursday December 16, 2021. If three or more Commissioners object to the Executive Director’s determination of immateriality at that time, then the application shall be

processed as a material CDP amendment.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING.

As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

If you have any questions about the proposal or wish to register an objection, please contact Tamara Gedik in the North Coast District office at Tamara.Gedik@coastal.ca.gov.

Attachment A: Amendments to Special Conditions

cc: Commissioners/File

Attachment A

AMENDMENTS TO SPECIAL CONDITIONS OF

CDP No. 1-20-0422-A2

Text to be deleted is shown in ~~bold strikethrough~~, and text to be added appears in **bold underline**.

...

9. Final Plan for Revegetation of Disturbed Areas.

- A. NOT LESS THAN 60 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT NO. 1-20-0422, OTHER THAN UTILITY RELOCATION (WHICH MAY OCCUR SOONER), the permittee shall submit, for the review and approval of the Executive Director, final revised plans for revegetation of disturbed areas. The plan shall substantially conform to the plan prepared by Caltrans, revision date December 1, 2020, and entitled "Draft Coastal Onsite Revegetation Plan," except the revised final plan shall include the following:

...

- vi. In addition to replanting areas upon completion of construction activities ~~and prior to October 1, the usual onset of the rainy season,~~ **appropriate Best Management Practices (BMPs) will be installed prior to rain events, as further specified in Special Condition Nos. 29 and 30 below, to prevent erosion and sedimentation. This is** consistent with Caltrans measure IS-1, all bare soil areas shall be seeded with fast-growing native vegetation and adequately mulched with weed-free rice straw. Revegetation shall be performed only with sterile non-native grasses and/or native vegetation obtained from local genetic stocks within Humboldt, Del Norte, or Curry Counties within 30 miles of the coast. Sterile non-native annual grasses shall comprise no more than 50% of the erosion control seed mixture to be planted (seed per square foot of coverage), with the remaining seed composed of native species. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted or allowed to naturalize or persist on the parcel. No plant species listed as a 'noxious

Coastal Development Permit (CDP) Amendment 1-20-0422-A2

weed' by the State of California or the U.S. Federal Government shall be utilized within the property;

...

10. Final Onsite Wetland Mitigation and Monitoring Plan.

- A. NOT LESS THAN 60 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION OF THE DEVELOPMENT AUTHORIZED BY COASTAL DEVELOPMENT PERMIT NO. 1-20-0422, OTHER THAN UTILITY RELOCATION (WHICH MAY OCCUR SOONER), the permittee shall submit, for the review and approval of the Executive Director, final revised plans for onsite compensatory mitigation of impacted wetlands through creation of wetlands within the right-of-way south of South Bank Road. The plans shall substantially conform to the onsite compensatory mitigation plan prepared by Caltrans, revision date December 1, 2020, and entitled "Draft Coastal Onsite Revegetation Plan" except the revised final plans shall include the following:

...

- iv. In addition to replanting areas upon completion of construction activities ~~and prior to October 1, the usual onset of the rainy season,~~ **appropriate Best Management Practices (BMPs) will be installed prior to rain events, as further specified in Special Condition Nos. 29 and 30 below, to prevent erosion and sedimentation. This is** consistent with Caltrans measure IS-1, all bare soil areas shall be seeded with fast-growing native vegetation and adequately mulched with weed-free rice straw. Revegetation shall be performed only with sterile non-native grasses and/or native vegetation obtained from local genetic stocks within Humboldt, Del Norte, or Curry Counties within 30 miles of the coast. Sterile non-native annual grasses shall comprise no more than 50% of the erosion control seed mixture to be planted (seed per square foot of coverage), with the remaining seed composed of native species. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted or allowed to naturalize or persist on the parcel. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;

...

14. **Construction Requirements to Protect Coastal Resources.** All measures proposed by the permittee as "Project Features, Standard Measures, and Best Management Practices" shall be implemented, including all avoidance,

Coastal Development Permit (CDP) Amendment 1-20-0422-A2

minimization, and mitigation measures included in the Final EIR CEQA document adopted March 19, 2020 for the project (compiled in [Appendix C](#) to the staff report as amended for CDP 1-20-0422) as modified by the other special conditions of CDP 1-20-0422, including, but not limited to, the following:

...

- B. Pile-driving Methods. The following measures shall be implemented to minimize potential impacts from pile driving:
- i. Installation of the permanent piles, which will occur within cofferdams, shall occur using an oscillation technique, minimizing barotrauma effects on fish.
 - ii. Vibratory pile driving shall be used in lieu of impact pile driving whenever feasible.
 - iii. Impact driving and hoe-ram operations shall be minimized to the extent practicable.
 - iv. Impact driving and hoe ram operations shall be limited to daylight hours only.
 - v. Attenuation methods (e.g., bubble curtains) will be applied where feasible.
 - vi. Pile driving will cease when measured sound levels reach the injury thresholds at the predicted attenuation distances. ~~The assumed installation rate per day will not be exceeded even if sound levels remain below the injury thresholds.~~

...

30. **Construction Pollution Prevention Plan. NOT LESS THAN THIRTY (30) DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION OTHER THAN UTILITY RELOCATION (WHICH MAY OCCUR SOONER),** the permittee shall submit, for the written approval of the Executive Director, a final Construction Pollution Prevention Plan (CPPP) that details the project's plans to protect coastal water quality during construction and demolition activities. The final plan shall comply with the following requirements:

...

- G. Except as otherwise specified in Subsection G(b) below, All all grading activities shall be conducted during the annual dry season period of June 1 through November 15 and shall be subject to the following condition:
- a. All work shall cease upon the onset of precipitation at the project site and shall not recommence until the predicted chance of rain is less than 50 percent for the Smith River area portion of the Del Norte Coast segment of the National Weather Service's forecast for Northwestern California.
 - b. Construction of temporary stream crossings and their related diversion and access road may commence as early as May 1 at the

following sites as depicted on [Exhibit 11](#), consistent with CDFW LSAA No. EPIMS-DEL-15894-R1C and subject to the conditions set forth in the subsection below: (a) Temporary Stream Crossing 1 at Other Water (OW)-3; (b) Temporary Stream Crossing 2 at OW-2; (c) Clear Water Diversion at OW-6; and (d) temporary wetland fill at OW-7.

- i. For any work below or directly adjacent to the top of bank between October 16 and June 14 of any year, the permittee shall provide a copy of the approved Natural Resources Protection Plan, to be prepared for the California Dept. of Fish and Wildlife, to the Executive Director for review at least 10 working days prior to the start of project activities. The plan shall include, at a minimum, monitoring criteria for potential river level rises that could come in contact with construction activities, as well as thresholds for action, and details plans for actions if thresholds are exceeded that illustrate how all equipment, construction material, excavations, and fresh concrete will be removed or protected from coming in contact with the river at least 24 hours in advance of the anticipated event.
- ii. If work is performed in the channel or on the stream banks after October 15 and before June 15, in addition to measures outlined in an approved Natural Resources Protection Plan, the Permittee shall do all of the following:
 1. Stage and install erosion and sediment control materials at the work site.
 2. Monitor the 72-hour forecast from the National Weather Service.
 3. When the 72-hour forecast indicates a probability of precipitation of 60% or greater, or at the onset of any precipitation, ground disturbing activities shall cease and erosion control measures shall be implemented to stabilize exposed soils and prevent the mobilization of sediment into the stream channel or adjacent wetland or riparian areas.

...

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CORRECTED NOTICE OF PROPOSED PERMIT AMENDMENT¹

Date: December 10, 2021

To: All Interested Parties

From: Bob Merrill, North Coast District Manager
Amber Leavitt, Transportation Program Analyst

Subject: Amendment to Coastal Development Permit (CDP) 1-07-038
Applicant: California Department of Transportation (Caltrans)

Location: Within a 10.7-mile stretch of Caltrans' Highway 101 right-of-way from just south of the Alton Interchange, near the community of Alton, to the Hookton Road exit, near the community of Beatrice (post miles 57.1 to 67.8), Humboldt County.

Original CDP Approval

CDP 1-07-038 was originally approved by the Coastal Commission on June 12, 2008, for the conversion of an existing segment of Highway 101 from a four-lane expressway to a four-lane freeway, from just north of the Van Duzen River Bridge (post mile 57.0) to just north of the intersection of Highway 101/Drake Hill Road (post mile 59.1); construction of an elevated interchange with ramps at the existing at-grade intersection of Highway 101 and Route 36; closure of seven at-grade intersections; construction of frontage roads west of Highway 101; installation of median barriers, lighting, and new pavement overlay; demolition (burning) of an existing residence and numerous commercial structures; permanent removal of eight billboards (no replacements would be allowed by Caltrans); after-the-fact demolition of a vintage redwood barn near the southwestern quadrant of the proposed interchange; and the removal of a gate, boulders, and signage that were blocking a coastal access road to the Van Duzen River.

Proposed CDP Amendment

Excavate and pave 7.4 acres of grassy highway median with a permeable pavement system and 0.2 acre of grassy median with impermeable pavement; replace existing

¹ This notice corrects and supersedes the notice of proposed permit amendment mailed on December 2, 2021. The original notice incorrectly stated in the Proposed CDP Amendment description that begins at the bottom of page 1 that the drainage inlet grates (D1) that would be installed within the median of the highway to replace existing grates would be bicycle proof. The application proposes instead to install standard grates within the median, as Caltrans indicates that the smaller holes of bicycle proof grates tend to clog with debris and require maintenance at a greater frequency than standard grates. As the grates to be replaced are located within the highway median and not within the lanes of traffic or roadway shoulders, the gate replacement work will not have any significant effect on bicycle use of the roadway.

drainage inlet (DI) grates within the median; place 109 20-foot long, 3-inch diameter perforated pipes within the proposed permeable pavement system, connecting to the existing DIs; construct depressed drainage inlet paving aprons around the DIs; plant vegetative screening along the vegetated southbound shoulder near Finch Creek (post mile 63.1) and along the vegetated northbound shoulder just north of Alton (post mile 58.4); remove electrical facilities located within the median at the Loleta Drive Overcrossing (post mile 69.9) and install new pull-boxes, conduit, and conductors adjacent to the outside shoulders at this location; upgrade six existing electroliers located along the on- and off-ramp shoulders at the Loleta Drive Overcrossing with the current standard design; and install six new type electroliers at the east and west ends of the Loleta Drive Overcrossing with the current standard design.

Executive Director's Immateriality Determination

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

This roadside safety project will pave all portions of unpaved median area within the 10.7-mile highway stretch with permeable pavement, except for 0.2 acre which will be paved with impermeable pavement as required by Caltrans' Highway Design Manual within areas where the existing inside shoulder width is less than 5 feet. The purpose of paving the vegetated median is to reduce Caltrans maintenance worker exposure to safety hazards associated with mowing vegetation in high-risk areas and to increase the ability for motorists to recover safely from potential collisions. The project also includes relocating some electrical infrastructure within the median near the Loleta Drive overcrossing to accommodate the paving and to upgrade and add new lighting at this location to meet current safety standards for visibility at conflict areas.

The lights on the upgraded electroliers at the Loleta Drive Overcrossing will result in approximately the same area being illuminated as the existing electroliers and the addition of six new electroliers at this location will not have any significant visual impacts; all the light fixtures will be shielded to ensure no upward light will be emitted.

The median within the project area is divided by a median barrier comprised of alternating sections of concrete barrier with a faux stone pattern and a three metal beam guard rail. The area between the highway pavement and the barrier rail currently has both grass and asphalt pavement, which continuously alternate with each other throughout the 10.7-mile stretch. The proposed median pavement will match the colors of the existing pavement in the median within the project area to the best extent practicable. To mitigate for the visual impacts of paving the vegetated median, Caltrans will plant a total area of approximately 39,457 square feet (0.9 acre) within their right-of-way within the project limits for the purpose of vegetative screening. Redwood trees will be planted along the vegetated shoulder near Finch Creek (post mile 63.1) to screen views of a gravel yard operation from travelers on southbound Highway 101. Just north of Alton along the northbound shoulder (post mile 58.4) a variety of shrub and tree species will be planted to screen an industrial area. Special Condition 19 requires Caltrans to submit a final planting plan to the Executive Director for review and

approval, to monitor and maintain the plantings as proposed, and that the planting shall only be considered successful if the number of living installed plants and/or native volunteer woody plants meets or exceeds 80% of the original number of installed woody plants at the end of the 5-year monitoring period. Special Condition 19 also requires Caltrans to replace over the functional life of the project any of the planted vegetation that dies and has provided significant visual screening after the 5-year monitoring period has been completed and success criteria have been deemed met.

The use of a permeable pavement for the majority of the median paving will avoid creating net new impervious surfaces for all but 0.73 acre of the project. The permeable pavement design allows stormwater runoff to filter through voids in the pavement surface into an underlying rock reservoir. Runoff is temporarily stored in the rock reservoir as it infiltrates into the on-site soils. This design reduces the rate stormwater enters the drainage inlets, which allows for filtration of pollutants into the underlying soils. The proposed permeable pavement system is designed to store and infiltrate the standard water quality design volume, which is the 85th percentile of a 24-hour storm event. During high precipitation events (greater than the 85th percentile of a 24-hour storm event), the proposed perforated pipes will reduce potential ponding around the drainage inlets by allowing stormwater to flow directly to the drainage inlets. Existing drainage outlets are not being modified. Special Condition 18 will ensure the proposed permeable pavement is constructed as proposed and maintained for the life of the project so that it functions effectively.

No wetlands or other environmentally sensitive habitat areas will be impacted by the proposed project; all construction associated with this project will occur in developed and fully managed areas that contain no habitat for special status species. A Stormwater Pollution Prevention Plan will be developed that will include best management practices to be employed during construction to prevent impacts to environmentally sensitive areas located adjacent to the proposed work, including but not limited to erosion control; temporary drainage inlet protection methods such as gravel bags to prevent sediment and other pollutants from entering drainage systems; perimeter control devices such as fiber rolls, compost socks, and silt fences to prevent sediment transport from the project site; and spill prevention and control practices.

The project will have no impacts on public access and will not result in any traffic delays. Project construction will require approximately 280 working days with traffic control consisting of one lane closure in each direction of travel between 7 p.m. and 7 a.m. within a maximum closure length not to exceed two miles. Bicyclists will be accommodated through the work zone. The full width of the traveled way will be open to traffic when no active construction activities are occurring within six feet of the traveled way.

As the amended development does not have a potential for adverse impacts, either individually or cumulatively on coastal resources or public access, the Executive Director has determined that the proposed amendment is immaterial.

Coastal Commission Review Procedure

The CDP may be amended as proposed if no written objections are received in the North Coast District office within ten working days of the date of this notice. In addition to the regular means required by the regulations or statute, please make sure that you also send a copy of all correspondence or other documents electronically to NorthCoast@coastal.ca.gov. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission on December 16, 2021. If three or more Commissioners object to the Executive Director's determination of immateriality at that time, then the application shall be processed as a material CDP amendment.

IMPORTANT! PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING.

As a result of the COVID-19 emergency and the Governor's Executive Orders N-29-20 and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

If you have any questions about the proposal or wish to register an objection, please contact Amber Leavitt in the North Coast District office at amber.leavitt@coastal.ca.gov.

Attachment A: Amendments to Special Conditions of CDP 1-07-038

cc: Caltrans District 1
Humboldt County Planning and Building Department

Attachment A

AMENDMENTS TO SPECIAL CONDITIONS OF CDP 1-07-038 (CDP Amendment 1-07-038-A1)

Special conditions 2, 4, 5, 7, 12, and 17 of the original permit are modified as shown below and reimposed as conditions of CDP Amendment 1-07-038-A1. Special conditions 18, 19, and 20 shown below are added as conditions of CDP 1-07-038-A1. All other special conditions of the original permit remain in full force and effect. Text to be deleted is shown in ~~strike through~~, and text to be added appears in **bold double-underline**.

2. CONSTRUCTION RESPONSIBILITIES.

- A. This permit authorization requires, and by accepting the benefits of CDP 1-07-038 Caltrans agrees that:
- (1) All debris, materials, equipment, vehicles, staging and storage features, concrete washout areas, and any other material or temporary feature associated with project construction shall be removed immediately after project completion and the affected area returned to pre-construction conditions, in accordance with other special conditions set forth herein.
 - (2) All waste material or excess graded material generated by demolition, burning of structures to be removed, or construction shall be removed from the construction site and disposed of at a facility that is either:
 - a) Located outside of the coastal zone, with necessary permits and approvals to accept the material for disposal or recycling, and subject to contractual terms that guarantee that the material will not be disposed thereafter by subsequent acquiring parties in a manner that could potentially produce adverse impacts on coastal resources (for example, by disposal to streambanks, wetlands, open space, or agricultural areas visible to, or hydrologically connected to, coastal resources); or
 - b) Located inside the coastal zone at a facility demonstrated by Caltrans to the satisfaction of the Executive Director to have all necessary permits and approvals, including a coastal development permit, and subject to contractual terms that guarantee that the material will not be disposed thereafter by subsequent parties in a manner that could potentially produce adverse impacts on coastal resources (for example, by disposal to streambanks, wetlands, open space, or agricultural areas); and
 - c) The location and volume of project wastes so disposed, and the ultimate placement or use of such material, shall be documented by the Caltrans resident engineer. The resident

engineer shall record and retain in the permanent project files the verification of the manner of final disposal of the materials, which shall be guaranteed against re-sale or re-use in a manner that is inconsistent with the requirements set forth herein. The disposal records shall be retained by Caltrans as part of the permanent project files and made available on request.

- (3) Fueling shall take place (1) at a commercial station, or (2) in a designated offsite area that is bermed and otherwise set up to fully contain any potential spill without release outside of the designated area(s), or (3) in other locations within the project area where fueling does not take place over permeable ground or coastal waters, nor in areas in or adjacent to wetlands, coastal waters or waters tributary to coastal waters (boundaries of such areas near the project site shall be marked with ESA fencing or other prominent forms of identification, placed and maintained under the supervision of a qualified Caltrans biologist), and where the fueling location and equipment have the necessary BMPs and support equipment to prevent, or in the event of an accident, contain, any fuel spill that may occur. The project site shall be continuously equipped with all materials necessary to control and clean up any spill that may occur. The integrity of the containment berm or other BMPs and the readiness of control and cleanup materials and equipment shall be periodically verified by the Caltrans site supervisor and noted in the permanent project records. In addition, large, relatively immobile equipment, such as cranes, may only be fueled on location by a certified re-fueler and portable generators may only be fueled at the location of their use, if such fueling is undertaken subject to all of the limitations and requirements set forth in all terms and conditions of this permit.
- (4) Cement/concrete shall be prepared and poured or placed in a manner that will prevent discharges of wet cement, or waters that have been in contact with cement/concrete, into coastal waters, or into waters tributary to coastal waters.
- (5) Rinsate from the cleaning of equipment, including cement mixing equipment, shall be contained and handled only in upland areas where drainage to coastal waters is fully prevented, and otherwise outside of any environmentally sensitive habitat area or wetland or buffers thereto.
- (6) Reporting protocols and contact information for the appropriate public and emergency services/agencies in the event of a spill shall be prominently posted on site at all times.
- (7) **Except for the development approved under CDP 1-07-038-A1,**
nNo vegetation removal, including clearing, grubbing, limbing, trimming, or other disturbance of existing vegetation, other than the

mowing of grassy areas within ten (10) feet of roadways or structures, may occur between March 1 and August 31 of any year unless a qualified biologist provides a survey undertaken to the satisfaction of the Executive Director not less than ten (10) days prior to proposed commencement of such activities, demonstrating conclusively that: (a) no migratory birds or other bird species of special concern are nesting in the area that would be affected; (b) the results of the survey are being provided to the Executive Director's satisfaction not less than five (5) days prior to proposed commencement of such activities; and (c) the vegetation removal has been authorized by a California Department of Fish and Game biologist familiar with the bird species likely to nest in the subject area.

- (8) Staging and storage of construction machinery, materials, equipment, fuel, or any other material, or storage of debris or graded material, shall not take place within wetlands or sensitive habitat areas. The perimeters of wetlands and sensitive habitat areas shall be identified and marked in the field by a qualified biologist prior to commencement of construction and re-identified as often as needed thereafter to continuously maintain the identification and protection of sensitive habitat areas. ESA fencing shall be placed in an appropriate manner to protect sensitive resources, and provisions shall be included in such placement to ensure that wildlife passage is not blocked by ESA fencing. Wildlife passage features shall be included where deemed necessary by the supervising Caltrans biologist for the purpose of providing continued wildlife corridor connectivity throughout the project area during construction.
- (9) **The permittee shall avoid the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting, in order to minimize wildlife entanglement and plastic debris pollution.**
- (10) **During construction, all trash and debris shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during construction activities. Any debris inadvertently discharged into coastal waters or surrounding habitats shall be recovered immediately and disposed of consistent with the requirements of this CDP.**
- (11) **Temporary drainage inlet protection methods such as gravel bags shall be deployed to prevent sediment and other pollutants from entering drainage systems.**

(12) Perimeter control devices such as fiber rolls, compost socks, and silt fences shall be utilized to prevent sediment transport from the project site.

- B. All project activities shall be undertaken at all times in full compliance with these requirements and with all approved terms and conditions of CDP 1-07-038 **as amended**. Any project changes to these requirements shall be reported to the Executive Director. No changes to these requirements may be approved without a **further** amendment to CDP 1-07-038, unless the Executive Director determines that no amendment is legally required.

4. REVISED MEDIAN BARRIER PLANS

- A. Within 120 days of Commission action on **the original permit** (CDP 1-07-038), or within such additional time as the Executive Director may authorize for good cause, Caltrans shall submit revised median barrier plans for the review and approval of the Executive Director incorporating the following changes to the proposed project, as proposed by Caltrans:

The proposed median barriers along the Highway 101 portion of the proposed project, between the Van Duzen River Bridge and the area north of the Alton Interchange as shown on Exhibit 6 (to Post Mile 58.2) previously described by Caltrans as:

- Double thrie beam guardrail with a partially paved, variable slope median from the southern limits of the project to south of SR 36
- 6.7 m (22 ft) minimum median with a Type 60 concrete median barrier from SR 36 north to the northern project limits
- 1.6 m (5.3 ft) wide vegetated strips in the median segments being paved

shall be revised to provide for:

double thrie beam guardrail from the southern limits of the project to Post Mile 58.2 to the north, as shown on Exhibit 6, and either thrie beam or concrete median barrier from north of Post Mile 58.2 to the northern limits of the project, ~~with a vegetated strip a minimum of 5.3 feet wide on each side of all new median barrier structures, except in locations where the median is already paved.~~

Where thrie beam is used, the plans shall utilize only a median barrier design that is comprised of a wooden post/metal thrie beam guardrail ~~with adjoining green spaces and natural surfaces (no paving) planted with non-invasive native plant species,~~ and shall be designed in a manner and height providing maximum wildlife permeability and safety, consistent with pertinent crash rail standards. The metal rail shall be of weathered, not shiny, metal finish, and shall be of the lowest finished height consistent with pertinent safety standards. Where median barriers proposed within the remainder of the project boundaries north of Post Mile 58.2, the barriers may be constructed of either the thrie beam design described above, or the concrete median barrier design type only if consistent with the following limitations. If the concrete barrier design is selected, the barrier shall be finished with faux rock-face treatment with grout lines inscribed deeply enough to emulate masonry joinings and coloration in shades of gray that emulate the local palette of natural stone. The concrete barrier design shall

incorporate ground-level “scupper” openings of at least 9 inches in height and 18 inches in width, spaced at intervals not more than 25 linear feet apart. The scupper openings shall be visible from each side to encourage wildlife use. ~~The median barriers of either design shall have a vegetated strip, planted with non-invasive species, of a minimum of 5.3 feet in width on each side of the barrier, except in areas where a concrete surface already exists in the proposed median location.~~

- B. Amendment. Caltrans shall undertake development in accordance with the approved final plan, **except as modified by CDP Amendment 1-07-038-A1** and with all approved terms and conditions of CDP 1-07-038. Any proposed changes to the approved final plan or the approved terms and conditions of CDP 1-07-038 shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

5. INITIAL DEMOLITION and SITE PREPARATION PLAN

Not less than thirty (30) days prior to commencement of demolition and preliminary site preparation activities **for development authorized under the original permit**, Caltrans shall submit a plan for the review and approval of the Executive Director for the removal or demolition, by controlled burn or other means, of the existing development slated for clearance from the proposed project site, including, but not limited to, the excavation and removal of septic tanks and associated backfill.

- A. The plan shall limit the removal, demolition, or controlled burn of all of the structures to be removed to the time period of each year between September 1, and February 28, unless prior to commencement, a nesting survey has been prepared by a qualified biologist within the ten (10) days prior to the proposed activity and submitted to the Executive Director that provides evidence to the satisfaction of the Executive Director that no birds or bats are nesting in or on the structure(s) to be removed, demolished, or burned. The plan shall include evidence that the Air Quality Management District has granted all necessary approvals for any controlled burn. The plan shall include written evidence that the fire department, California Highway Patrol, and all potentially affected utilities and gas pipeline owners/operators, have been notified of the dates, times, locations, and conditions of such removal and have been given the opportunity to comment on whether the demolition/burning or other means of removing the pertinent structures will be safe and appropriately implemented. The plan shall demonstrate that the necessary fire and life safety protection resources will be present on site when the subject activities commence. The plan shall include the requirement that no demolition or burning activities that may affect property owners, utilities and/or staffing of safety agencies may commence unless representatives of each have been invited to be on-site prior to commencement of pertinent activities and remain present during any portion of the pertinent

activities that could result in fire or life safety concerns, or affect the visibility conditions experienced by travelers on the Highway 101 or 36 corridors, local coastal access routes (such as to the Van Duzen River) or along nearby surface streets. The plan shall include provisions for the clean up of all debris, ash, and other wastes that may be generated by the subject activities and for all erosion control measures necessary to ensure the stability of disturbed soils. No grading may be undertaken pursuant to this provision.

- B. Amendment. **Except for the development authorized under CDP Amendment 1-07-038-A1**, Caltrans shall undertake all development in accordance with the approved final plans and with all approved terms and conditions of CDP 1-07-038. Any proposed changes to the approved final plans or the approved terms and conditions of **the original permit** (CDP 1-07-038) shall be reported to the Executive Director. No changes to the approved final plans or the terms and conditions of CDP 1-07-038 shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. WATER QUALITY and WETLAND PROTECTION

Not less than ninety (90) days prior to the anticipated commencement of any development authorized by CDP 1-07-038, other than development authorized pursuant to Special Condition 5 **and the development authorized under CDP Amendment 1-07-038-A1**, Caltrans shall submit for the review and approval of the Executive Director:

A. A final Water Quality Protection Plan **for development authorized under the original permit** including but not limited to the following components:

(1) A Storm Water Pollution Prevention Plan (SWPPP) **for development authorized under the original permit** that prevents contamination of wetlands and associated damage to sensitive species from storm water runoff during the proposed construction period; and

(2) Post-construction Best Management Practices (BMPs) plan **for development authorized under the original permit** for water quality protection including methods to filter highway effluent that would otherwise carry oil and grease and other contaminants into wetlands, other waters of the State, and the proposed wetland mitigation site. The plan shall include features for erosion control and water filtration at all culverts, swales, filters, energy dissipaters, or other structures that will be installed or improved at the project site to filter, treat, and/or convey waters affecting any portion of the subject project site. The plan shall include provisions for long term maintenance to ensure that the BMPs will continue to provide water quality protection for the life of the development; and

(3) A plan **for development authorized under the original permit** for the management and/or disposal of soils at the project site identified as contaminated with Aerially Deposited Lead (ADL) that:

- a) specifies that any ADL soil that is moved in any way shall be reported to the California Department of Toxic Substance Control (CDTSC) and subject to the requirements of that agency for dealing with hazardous waste;
- b) provides that ADL soils within ten (10) feet of bioswales, sand filters, or the mitigation wetland or other earthen drainage features of the subject project shall be removed and replaced with clean soil for the purpose of preventing enhanced movement of ADL or other forms of lead into water quality treatment features or sensitive habitat; and
- c) provides that any ADL soils that are exposed by construction activities shall be managed in place with construction Best Management Practices during the course of construction, and, if left in place in a manner that will prevent erosion of these soils into wetlands; and
- d) ensures that if on-site retention of ADL soils is authorized by the CDTSC, provides that such soils may be re-compacted in place and watered-in for stabilization, and shall be covered at all points by a compacted and watered-in layer of clean, ADL-free soil not less than six (6) inches thick; and
- e) ensures that if permanent on-site retention of ADL soils that are exposed by construction activities is not authorized by CDTSC, that the subject soils shall be moved, covered, secured for licensed transport, and immediately disposed of in accordance with state hazardous waste regulations and without mixing such soils with other materials or less-contaminated soils; and
- f) provides for a sampling program after final capping pursuant to subparagraph (d) above, but prior to revegetation, that is adequate to verify that the upper cap of soil is free of ADL contamination, with results submitted to the satisfaction of the Executive Director; and
- g) provides for the management of any ADL soils that are not disturbed during site activities and proposed to be left in place in a manner that will prevent erosion of those soils into wetlands; and
- h) provides that if any ADL soils are excavated during the implementation of the proposed project ("excavated" means that the soil is lifted above or removed from the ground, however temporarily, rather than being pushed aside—only-- without the action of lifting the pertinent ADL soils), then such soils shall be sequestered from all other materials on site, quantified for the project records, and immediately contained for shipping, labeled, and loaded on trucks for disposal at a licensed hazardous waste facility (with retention by Caltrans in the permanent project records of the receipts and other evidence of the final disposal of all ADL soils excavated during construction of the subject project; and

B. A Staging and Temporary Access Plan **for development authorized under the original permit**, including but not limited to a site plan view, to scale, showing the locations and boundaries of: a) all staging, including areas for the storage of materials, fuel and equipment, parking, graded soil storage, or temporary storage of imported fill; b) concrete washout areas and effluent containment boundaries, fueling areas, and all temporary roads. The site plan shall also show the locations and limits of designated wetlands or sensitive habitat areas delineated in the Plan required pursuant to Special

Condition 9(A). All designated wetlands and sensitive habitat areas delineated in the Plan required pursuant to Special Condition 9(A) are areas where development, including activities identified in the Staging and Temporary Access Plan, is prohibited. A Caltrans biologist familiar with the sensitive habitat and wetland locations of the subject site shall verify that these areas are accurately shown on the subject plans as areas where development is prohibited, prior to submittal to the Executive Director.

C. Construction shall not commence until the Executive Director has provided final review and written approval of the Water Quality Protection Plan and SWPPP, and the Staging Plan, including verification of any changes requested by the Executive Director.

D. Amendment. Caltrans shall undertake all development in accordance with the approved final Water Quality Plan, **except as modified by development authorized under CDP Amendment 1-07-038-A1 which shall comply with Special Condition 18** and with all approved terms and conditions of CDP 1-07-038. Any proposed change to the approved final plans or the terms and conditions of CDP 1-07-038 shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

12. PERMANENT REMOVAL OF BILLBOARDS; NO FUTURE BILLBOARDS OR OTHER VISUALLY INTRUSIVE STRUCTURES

A. In accepting the benefits of CDP 1-07-038, Caltrans acknowledges and agrees that the eight (8) billboards slated for removal as part of the proposed project shall be permanently removed and shall not be replaced, nor any new billboards approved, leased, constructed, or otherwise authorized whether temporary or permanent, by Caltrans, within any area of the ~~subject project site~~ **of the original project authorized under CDP 1-07-038** or rights-of-way, nor within the extended rights-of-way adjacent to the highway corridor in the Van Duzen River environs. Caltrans additionally acknowledges and agrees to restrict the posting of signage or lighting within the ~~project area~~ **of the original project authorized under CDP 1-07-038** and within the highway corridor of the greater Van Duzen River environs to that signage or lighting strictly necessary to comply with minimum safety standards and further, agrees that no simple informative signage that is not necessary to comply with minimum safety standards shall be installed within this visually sensitive portion of the highway corridor.

B. PRIOR TO ISSUANCE OF CDP 1-07-038, Caltrans shall submit a written agreement, in a form and content acceptable to the Executive Director, agreeing to be bound by the requirements of Subsection A.

17. FUTURE DEVELOPMENT RESTRICTIONS

This permit is only for the development described in Coastal Development Permit No. 1-07-038, **as amended**. All future repairs or maintenance of the trunk lines, ditches, drainage conveyances, drainage swales, and related facilities shall require a permit amendment or a new coastal development permit.

18. PERMEABLE PAVEMENT. Caltrans shall construct and maintain the development authorized under CDP Amendment 1-07-038-A1, consistent with the following specifications concerning the proposed permeable pavement:

- A. Permeable pavement shall be installed instead of impermeable pavement to the maximum extent feasible, consistent with the proposed project description and draft plans submitted as part of the application.
- B. The permeable pavement system shall be maintained for the functional life of the project, as proposed, by sweeping the median pavement four to six times per year at a minimum and vacuuming as needed.

Caltrans shall also comply with the followed additional measures:

- C. Caltrans shall periodically monitor the permeable pavement system, such as a test to verify that the permeable pavement is infiltrating properly and visual inspections after large storms when ponding or puddles may indicate clogging, to ensure the pavement remains clear of dirt and debris and maintains its permeability and the drainage system continues to function effectively.
 - D. Caltrans shall repair, replace, or remove the pavement and underlying drainage system if the pavement significantly deteriorates and/or the drainage system ceases to function effectively, to ensure that it continues to provide the proposed stormwater management benefits.
 - E. The permeable pavement shall at no time be sealed, coated, or repaved with impervious materials, including top coat sealers, asphalt sealers, crack sealers, or repaving with conventional asphalt.
19. VEGETATIVE SCREENING. Prior to commencement of development authorized under CDP Amendment 1-07-038-A1, Caltrans shall submit a final planting plan to the Executive Director for review and written approval, which shall substantially conform to the proposed planting description and draft plans submitted as part of the application. The plan shall provide for the following:
- A. Vegetation maintenance (watering, weeding, and protecting resprouting native vegetation and volunteers) shall be conducted for Years 2 through 5 following plant installation and a year of plant establishment.
 - B. Monitoring shall occur annually to assess trajectory towards the success criterion and allow for remedial measures. Monitoring shall include establishment of photo points and census of installed plantings and volunteers. Photo points and monitoring data shall be retained in the project file.
 - C. The planting shall be considered successful if the number of living installed plants and/or native volunteer woody plants meets or exceeds 80% of the original number of installed woody plants at the end of the 5-year monitoring period.
 - D. An as-built report shall be submitted by the end of Year 1, and a final report shall be submitted after the 5-year maintenance and monitoring period for the review and written approval of the Executive Director. The final report shall include documentation of annual monitoring, discussion of whether the success criterion has been met, and proposed remedial measures if the success criterion has not yet been met.

- E. Provisions for replacement over the functional life of the development of planted vegetation that dies and has provided significant visual screening after the 5-year monitoring period has been completed and success criteria have been deemed met.

Caltrans shall undertake all development in accordance with the approved final planting plan, consistent with all approved terms and conditions of CDP 1-07-038 as amended. Any proposed change to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET, SUITE 130
ARCATA, CA 95521
VOICE (707) 826-8950
FAX (707) 826-8960



Prepared December 10, 2021 for the December 16, 2021 Hearing

TO: Coastal Commissioners and Interested Persons

FROM: John Ainsworth, Executive Director
Bob Merrill, District Manager

SUBJECT: **Executive Director's determination that the action of the County of Mendocino accepting the Commission's certification of LCP Amendment No. LCP-1-MEN-20-0021-1 (Accessory Dwelling Units) is legally adequate.**

On September 9, 2021, the Commission approved the County of Mendocino's Local Coastal Program (LCP) Amendment No. LCP-1-MEN-20-0021-1 with suggested modifications. The LCP amendment amends the County's certified Land Use Plan and Implementation Program to regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with state law regarding ADUs. Following the County's formal submittal of the LCP amendment, the County requested a number of modifications to its submittal to address more recent changes to state law regarding ADUs enacted since County submittal of the LCP amendment. In addition, the Commission staff collaborated with the County staff to develop additional modifications to refine the proposed LCP amendment.

By its actions adopting Resolution No. 21-168 and Ordinance No. 4497 on November 9, 2021, the Mendocino County Board of Supervisors has acknowledged and accepted the Commission's suggested modifications. Pursuant to section 13544 of Title 14 of the California Code of Regulations, the Executive Director has determined that the actions taken by the County are legally adequate to satisfy the terms and requirements of the Commission's certification.

Exhibits

Exhibit 1: Notification of Effective Certification Letter (to send after Commission meeting)

Exhibit 2: Mendocino County Board Resolution No. 21-168

Exhibit 3: Mendocino County Ordinance No. 4497

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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December 17, 2021

Ignacio "Nash" Gonzales, Interim Director
Mendocino County Department of Planning and Building Services
860 North Bush Street
Ukiah, CA 95482

RE: Effective Certification of County of Mendocino Local Coastal Program (LCP)
Amendment No. LCP-1-MEN-20-0021-1 (Accessory Dwelling Units)

Dear Mr. Gonzales:

The Executive Director of the Coastal Commission has reviewed Mendocino County Board of Supervisors Resolution No. 21-168 and Ordinance No. 4497 for effective certification of the County's LCP Amendment No. LCP-1-MEN-20-0021-1, approved with suggested modifications by the Coastal Commission at its September 9, 2021 meeting. By its actions on November 9, 2021, the County formally acknowledged and accepted the Commission's certification of the LCP amendment including the suggested modifications. The County's acknowledgement agrees to issue coastal development permits in conformance with the certified LCP. The Executive Director has found that the County's resolution and ordinance fulfill the requirements of Section 13544(a) of Title 14 of the California Code of Regulations. In accordance with Section 13544(b) of the regulations, the Director has determined that the County's actions are legally adequate. This determination was reported to the Coastal Commission at its meeting of December 16, 2021. Commission approval and the amendment process are now complete. Commission staff remains available to assist you and your staff as you continue to develop and implement the County's LCP.

If you have any questions, please contact me at Bob.Merrill@coastal.ca.gov

Sincerely,

Robert S. Merrill
North Coast District Manager

EXHIBIT 1

RESOLUTION NO. 21-168

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS AMENDING THE MENDOCINO COUNTY GENERAL PLAN COASTAL ELEMENT, CHAPTERS 3.2, 3.3 AND 3.9 (GP_2018-0003) TO ESTABLISH POLICIES FOR ACCESSORY DWELLING UNITS IN THE COASTAL ZONE OF MENDOCINO COUNTY

WHEREAS, the County of Mendocino desires to amend its certified Local Coastal Program to address the development of accessory dwelling units and junior accessory dwelling units within the coastal zone of Mendocino County, in part to comply with its obligations to implement the provisions of Government Code Section 65852.2; and

WHEREAS, the Local Coastal Program amendment requires modifications to Chapters 3.2, 3.3, and 3.9 of the Coastal Element of the Mendocino County General Plan ("General Plan amendment GP_2018-0003") which are attached to this Resolution as Exhibit A and incorporated herein by reference; and

WHEREAS, General Plan amendment GP_2018-0003, as shown in Exhibit A, includes all of the "Suggested Modifications" included in the California Coastal Commission's September 9, 2021 action to certify the Local Coastal Program amendment (LCP-1-MEN-20-0021-1); and

WHEREAS, pursuant to Government Code Sections 65354 and 65855, the Mendocino County Planning Commission held a public hearing on October 7, 2021, heard and received all relevant testimony and evidence, and, at the conclusion of the public hearing, adopted Planning Commission Resolution No. PC_2021-0012, recommending that the Board of Supervisors adopt General Plan amendment GP_2018-0003 modifying Chapters 3.2, 3.3, and 3.9 of the Coastal Element of the Mendocino County General Plan to establish regulations for accessory dwelling units, with modifications made at the meeting and as specified in their resolution; and

WHEREAS, the Planning Commission recommendation to add "more than one" to section 20.458.025(A) is not approved as it would substantively alter the meaning of the section and create inconsistencies within the ordinance rather than providing clarification as intended by the Planning Commission; and

WHEREAS, the legislature of the State of California has found that certain classes of projects are exempt from the California Environmental Quality Act, including, pursuant to Public Resources Code Section 21080.17, the adoption of policies and regulations to implement the provisions of Government Code Section 65852.2 addressing the construction of dwelling units and accessory dwelling units; and

WHEREAS, pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; CEQA) does not apply to activities and approvals by a local government as necessary for the preparation and adoption of a local coastal program pursuant to the California Coastal Act (Public Resources Code Section 30000 et seq.), and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal programs is shifted from the County to the California Coastal Commission; and

WHEREAS, in accordance with applicable provisions of law, the Board of Supervisors held a public hearing on November 9, 2021 on General Plan amendment GP_2018-0003, at which time the Board heard and received all relevant testimony and evidence presented orally or in writing regarding General Plan amendment GP_2018-0003; and

WHEREAS, the County of Mendocino provided public notice of the hearing in a newspaper of general circulation on the amendment to the Local Coastal Program; and

WHEREAS, the Board of Supervisors has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Board regarding General Plan amendment GP_2018-0003.

NOW, THEREFORE, BE IT RESOLVED that, based upon the evidence in the record, the Mendocino County Board of Supervisors makes the following findings and determinations:

1. General Plan amendment GP_2018-0003 aligns with the County's intention of encouraging and facilitating the development of an adequate supply of housing.
2. General Plan amendment GP_2018-0003 is consistent with the 2009 Mendocino County General Plan, as well as the 2019-2027 Update to the Housing Element.
3. The 2019-2027 Housing Element of the General Plan contains the following policies related to Accessory Dwelling Units:
 - Policy 1.4 - Recognize that the different regions of the County have varying housing needs unique to the specific geographic regions.
 - Action 1.4b - Address issues associated with Vacation Home Rentals (VHRs) in residential communities to ensure safe and healthy housing opportunities are provided.
 - Policy 3.1 - Encourage the development of an adequate supply of housing and range of housing densities and types to meet the diverse needs of County residents.
 - Policy 3.2 - Promote the development of ADUs.
 - Action 3.2a - Continue efforts around the development of ADUs and explore additional incentives to promote ADUs to help ensure RHNA progress. Continue to publicize the opportunities for and encourage the production of ADUs for full-time occupancy and encourage family care units. Create resource materials to better facilitate and guide prospective ADU construction.
4. General Plan amendment GP_2018-0003 is intended to be carried out in a manner fully in conformity with the Coastal Act; and
5. General Plan amendment GP_2018-0003 is not subject to CEQA pursuant to Public Resources Code Section 21087.17; and
6. General Plan amendment GP_2018-0003 is not subject to CEQA pursuant to Public Resources Code Section 21080.9, and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal programs is shifted from the County to the California Coastal Commission; and

BE IT FURTHER RESOLVED that the Mendocino County Board of Supervisors accepts and agrees to the California Coastal Commission suggested modifications to Local Coastal Program Amendment No. LCP-1-MEN-20-0021-1 (Accessory Dwelling Units); and

BE IT FURTHER RESOLVED that the Mendocino County Board of Supervisors hereby adopts General Plan amendment GP_2018-0003 amending the Coastal Element of the Mendocino County General Plan to establish policies relating to the establishment of accessory dwelling units in the coastal zone of Mendocino County, with suggested modifications made by the California Coastal Commission, consistent with the Coastal Act and the Mendocino County General Plan; and

BE IT FURTHER RESOLVED that, pursuant to 14 Cal. Code Regs, Section 13544(c), General Plan amendment GP_2018-0003 shall become effective upon action by the California Coastal Commission concurring with the Coastal Commission Executive Director's determination that General Plan amendment GP_2018-0003, as adopted, is consistent with the Coastal Commission's September 9, 2021 action certifying Local Coastal Program Amendment No. LCP-1-MEN-20-0021-1 (Accessory Dwelling Units) with Suggested Modifications; and

BE IT FURTHER RESOLVED, that the Mendocino County Board of Supervisors directs the Department of Planning and Building Services to prepare an updated version of the Mendocino County General Plan Coastal Element, for distribution to public entities and the general public pursuant to Government Code section 65357; and


BE IT FURTHER RESOLVED that the Mendocino County Board of Supervisors agree to issue coastal development permits subject to the certified Mendocino County General Plan Coastal Element as amended.

The foregoing Resolution introduced by Supervisor Haschak, seconded by Supervisor McGourty, and carried this 9th day of November, 2021, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO
Clerk of the Board



DAN GJERDE, Chair
Mendocino County Board of Supervisors



Deputy

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

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

BY: CARMEL J. ANGELO
Clerk of the Board





Deputy

EXHIBIT A
MENDOCINO COUNTY GENERAL PLAN COASTAL ELEMENT AMENDMENT
(GP_2018-0003)

LUP Policy 3.2-1 [located in LUP Chapter 3, Subchapter 3.2 (Agriculture)] is modified as follows:

- 3.2-1 All agricultural land use, as represented within the agriculturally designated boundaries on the land use maps, shall be designated AG 60 or RL 160 for the purpose of determining density. This will support continued coastal agriculture use. One housing unit will be allowed for each existing parcel. Additional dwellings for resident agricultural workers shall be considered as conditional uses, subject to the provisions of this plan. Accessory dwelling units (ADUs) and/or junior accessory dwelling units (JADUs) may also be permitted consistent with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II). Detached ADUs may only be permitted if located within an existing legally-authorized residential structure and/or clustered with the primary residence.

LUP Policy 3.3-5 [located in LUP Chapter 3, Subchapter 3.3 (Forestry and Soils Resources)] is modified as follows:

- 3.3-5 TPZ lands or parcels entirely occupied by timberlands of commercial size shall have not more than one housing unit per 160 acres; county review and approval is required for more than one dwelling per legally created parcel. Accessory dwelling units (ADUs) or junior accessory dwelling units (JADUs) may also be permitted consistent with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II). Detached ADUs may only be permitted if located within an existing legally-authorized residential structure and/or clustered with the primary residence. Housing units on a timberland parcel, portions of which are not timberland, shall be subject to the density regulations prescribed for the land use shown on the Land Use Maps. Such housing units shall be located, when feasible, on non-Timberland soils.

LUP Policy 3.9-1 [located in LUP Chapter 3, Subchapter 3.9 (Locating and Planning New Development)] is modified as follows:

- 3.9-1 An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:

- each community's desired amount and rate of growth.
- providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.

In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists, and proposed development is consistent with all applicable policies of this Coastal Element and is in compliance with existing codes and health standards. Accessory dwelling units (ADUs) and/or junior accessory dwelling units (JADUs) may

also be permitted consistent with standards established in the Implementation Plan (Mendocino County Code, Title 20, Division II). The number of permitted ADUs within the Coastal Zone outside of the Gualala Town Plan area shall be limited to five hundred (500) units. Within the Gualala Town Plan area, a maximum of one hundred (100) ADUs shall be permitted. Any change to the caps on the maximum number of ADUs shall require a Local Coastal Program amendment. Determination of service capacity shall be made prior to the issuance of a coastal development permit.

-end of amendment-

ORDINANCE NO. 4497

ORDINANCE AMENDING MENDOCINO COUNTY CODE, TITLE 20, DIVISION II, CHAPTERS 20.308, 20.316, 20.456, 20.458, 20.472, 20.532, 20.536, and 20.544 TO ESTABLISH REGULATIONS RELATED TO ACCESSORY DWELLING UNITS IN THE COASTAL ZONE

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

Section 1: Section 20.308.020 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.308.020 – Definitions (A).

- (A) "Access" means the permission, ability and means to enter and pass to and from property.
- (B) "Access, Blufftop" means a public accessway which runs along the bluff edge of a property.
- (C) "Access, Coastal" means public rights-of-way to and along the sea.
- (D) "Access, Lateral" means a public accessway for public access and use along the shoreline.
- (E) "Access, Vertical" means a public accessway which extends from the first public road to the shoreline, a bluff edge for public viewing or to a lateral accessway.
- (F) "Accessory Building" means a detached subordinate structure, the use of which is incidental to the established primary use or main structure located on the same lot or building site, i.e., private garage, storage shed, farm outbuildings, etc. In no case shall such accessory structure dominate, in purpose, the principal lawful structure or use. This definition, by itself, is not intended to prohibit an accessory structure which is greater in size than the main structure. Accessory buildings shall not contain any sleeping quarters or kitchen facilities and are therefore not intended for human occupancy except for "Accessory Living Units" and "Accessory Dwelling Units" as provided in Chapter 20.456 (Accessory Use Regulations) and Chapter 20.458 (Accessory Dwelling Units).
- (G) "Accessory Dwelling Unit" or "ADU" means an attached or detached residential dwelling in compliance with Chapter 20.458, which provides complete independent living facilities for one (1) or more persons, and includes separate permanent provisions for entry, living, sleeping, eating, cooking and sanitation on the same parcel as a proposed or existing single-family or multi-family dwelling. See Chapter 20.458 (Accessory Dwelling Units).
- (H) "Accessory Living Unit" means a detached bedroom as defined in Section 20.308.035(B), or a guest cottage as defined in Section 20.308.050(I), or an ADU as defined in Section 20.308.020(G), or a JADU as defined in Section 20.308.065(A).
- (I) Accessory Structure. See Accessory Building.
- (J) "Accessory Use" means a use of land or of a structure incidental or subordinate to the principal use located upon the same lot.
- (K) "Aggrieved Person" means any person who, in person or through a representative, appeared at a public hearing held by the County of Mendocino in accordance with these regulations, or who, by other appropriate means prior to

action on a development permit or variance, informed the County of his or her concerns about the application for such permit and who objects to the action taken on such permit and wishes to appeal such action to a higher authority.

- (L) "Airport" means any area of land or water which is used or intended for use, for the landing and take-off of aircraft, and other appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, and all airport buildings and facilities located thereon.
- (M) "Alley" means a public or private way used as a secondary means of access to abutting property or between two (2) streets.
- (N) "Amendment" means any change, modification, deletion, or addition to the wording, text or substance of the Zoning Code, including any alteration in the boundaries of a zone, when adopted by ordinance and passed by the Board of Supervisors in the manner prescribed by law.
- (O) "Anadromous Stream" means fresh water stream used as a migration corridor and spawning and nursery habitat by fish, such as salmon and steelhead trout, that live most of their lives in saltwater.
- (P) "Animal Raising." See Light Agriculture.
- (Q) "Animal Waste Processing" means processing of animal waste and byproducts, including but not limited to animal manure, animal bedding waste, and similar byproducts of an animal raising agricultural operation, for use as a commercial fertilizer or soil amendment.
- (R) "Animals, Large" means cows, horses, sheep, goats, swine or similar bovine or equine animals.
- (S) "Animals, Small" means dogs, cats, birds, poultry, rabbits, chinchillas, hamsters, or other small domesticated animals other than large animals.
- (T) "Applicant" means the person, partnership, organization, corporation or state or local government agency applying for a coastal development permit or other land use approval pursuant to this Division.
- (U) "Approving Authority" means the Planning and Building Services Department, Coastal Permit Administrator, Planning Commission or Board of Supervisors authorized by this Division to make decisions affecting the Administration or enforcement of this Division.
- (V) "Aquaculture means that form of agriculture devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish and freshwater.
- (W) "Archaeological Site" means any area containing significant or important archaeological resources as defined in Appendix K Section EII of the California Environmental Quality Act (CEQA). Any person who in the preparation for or in the process of excavating or otherwise disturbing earth, discovers any archaeological or paleontological site shall cease and desist from all further excavation within one hundred (100) feet of the discovery and notify the Director of the Department of Planning and Building Services in conformance with Mendocino County Code Chapter 22.12. See also Paleontological Site.
- (X) "Area of Special Flood Hazard" (See "Special flood hazard area" Section 22.17.100).

- (Y) "Automobile Wrecking" means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, dumping or abandonment of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of three (3) or more motor vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of an automobile wrecking yard.

Section 2: Section 20.308.035 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.308.035 – Definitions (D).

- (A) "Density" means the number of dwelling units per acre or square feet, calculated as the total number of dwelling units divided by the total lot area within the boundaries of the lot. ADUs and JADUs are not considered to be dwelling units for the purpose of density calculations.
- (B) "Detached Bedroom" means a separate incidental structure containing one (1) room only without a kitchen or sanitation facilities, designed for and intended to be used as a sleeping or living facility for family members to be used in conjunction with a main structure which includes kitchen and sanitation facilities. A detached bedroom shall be located no farther than one hundred fifty (150) feet from the main structure and shall not exceed five hundred (500) square feet of floor area. See Chapter 20.456 (Accessory Use Regulations).
- (C) Detached Building. See Building, Detached.
- (D) "Development" means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

As used in this section, removal or harvesting of major vegetation is further defined in Section 20.308.080.

- (E) "Dwelling" means a building or portion thereof used exclusively for residential purposes, including one-family, two-family and multiple dwellings and boardinghouses, but not including hotels, motels, inns, bed and breakfast accommodations, hostels or other visitor accommodations.

- (F) "Dwelling, Single-Family" means a building containing not more than one (1) dwelling unit and designed for occupancy for not more than one (1) family.
- (G) "Dwelling, Two-Family (Duplex)" means a building containing two (2) dwelling units.
- (H) "Dwelling, Multifamily (Apartment)" means a building or portion thereof containing three (3) or more dwelling units.
- (I) "Dwelling Group" means a group of two (2) or more dwelling units located on a parcel of land which is held in one (1) ownership. A parcel with a single-family dwelling and an ADU and/or JADU is not considered to be a dwelling group.
- (J) "Dwelling Unit" means a single unit containing complete, independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.

Section 3: Section 20.308.040 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.308.040 – Definitions (E).

- (A) "Easement" means a recorded right or interest in the property of another, which entitles a holder thereof to use, privilege or benefit over said property.
- (B) "Efficiency Kitchen" means a small food preparation area for a JADU that includes the following:
 - (1) A cooking facility with appliances.
 - (2) A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the JADU.
- (C) "Emergency" means a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.
- (D) "Emergency Shelter" means a facility for the temporary shelter and feeding of indigents, disaster victims, or homeless persons that is limited to occupancy of six (6) months or less, as defined in Section 50801(b) of the California Health and Safety Code.
- (E) "Endangered Species" means a species of animal or plant whose survival and reproduction in the wild are in immediate jeopardy from one (1) or more causes, including loss of habitat, change in habitat over-exploitation, predation, competition, disease, or other factors; or a species of animal or plant shall be presumed to be endangered as it is listed in (1) Sections 670.2 or 670.5, Title 14, California Administrative Code; or (2) Title 50, Code of Federal Regulations Sections 17.11 or 17.12 pursuant to the Federal Endangered Species Act as endangered.
- (F) "Energy, Alternate" means alternate energy sources including energy from solar, wind, waves, biomass and cogeneration sources.
- (G) "Energy Facility" means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.
- (H) "Environmentally Sensitive Habitat Area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their

special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals.

- (I) "Estuary" means a coastal water body usually semi-enclosed by land, but which has open, partially obstructed, or intermittent exchange with the ocean and in which ocean water is at least occasionally diluted by freshwater runoff from the land.

Section 4: Section 20.308.065 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.308.065 – Definitions (J).

- (A) "Junior Accessory Dwelling Unit" or "JADU" is a living space not exceeding five hundred (500) square feet in size and contained entirely within an existing or proposed single-family dwelling. A JADU shall include a separate entrance from the main entry to the single-family dwelling, an efficiency kitchen, and may include separate sanitation facilities or share sanitation facilities with the existing single-family dwelling. See Chapter 20.458 (Accessory Dwelling Units).
- (B) "Junk Yard" means any land, lot or portion thereof where there is more than (1) one hundred (100) square feet for parcels less than forty thousand (40,000) square feet, or (2) four hundred (400) square feet for parcels greater than forty thousand (40,000) square feet of waste, discarded or salvaged materials bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, and including used furniture and household equipment yards, house wrecking yards, used lumber yards, and the like; excepting a site on which such uses are conducted within a completely enclosed structure.

Section 5: Section 20.308.075 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.308.075 - Definitions (L).

- (A) "Land Use Plan" means the relevant portions of a local government's general plan, or coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.
- (B) Lateral Access. See Access, Lateral.
- (C) "Legally Authorized Residential Structure" is a dwelling unit, accessory living unit or garage that either has been constructed with required permits and approvals from the California Coastal Commission and County of Mendocino or is a legal, non-conforming structure (see Section 20.308.050(D)).
- (D) "Living Area" means the interior inhabitable area of a dwelling unit including basements and attics and shall not include a garage or any accessory structure.
- (E) "Living Unit" means any building or vehicle designed or used for human habitation, including but not limited to a dwelling, accessory living unit, farm employee housing, farm labor camp, or mobile home.

- (F) Living Unit, Accessory. See Accessory Living Unit.
- (G) "Local Coastal Element" means that portion of a general plan applicable to the coastal zone which may be prepared by local government pursuant to Division 20 of the Public Resources Code, or such additional elements of the local government's general plan prepared pursuant to Section 65303 of the Government Code, as the local government deems appropriate.
- (H) "Local Coastal Program" means a local government's (1) land use plans, (2) zoning codes, (3) zoning district maps, and (4) within sensitive coastal resource areas, other implementing actions, which, when taken together, meet the requirements of, and implement the provisions and policies of, this Division at the local level.
- (I) Lodging house. See Hotel.
- (J) "Lot" means a single parcel of contiguous real property shown as a delineated parcel of land with a number or other designation on a map of subdivision created pursuant to the Subdivision map Act and recorded in the Mendocino County Recorder's office; or a parcel of real property that qualifies for a Certificate of Compliance pursuant to Government Code Section 66499.35. "Lot" shall also mean "parcel," but does not include road easements or right-of-way.
- (K) "Lot Area" means the total area, within the boundary lines of a lot, exclusive of easements as required in the County Division of Land Regulations for parcels zoned RR, SR, RV, FV, C, I and PF.
- (L) "Lot, Corner" means a lot situated at the intersection of two (2) or more streets, which streets have an angle of intersection of not more than one hundred thirty-five (135) degrees.
- (M) "Lot Coverage" means the percentage of gross lot area covered by all buildings and structures on a lot, including decks, and porches, whether covered or uncovered, and all other projections except eaves.
- (N) "Lot, Double Frontage" means a lot fronting on two (2) parallel or approximately parallel streets.
- (O) "Lot Depth" means the horizontal distance of a straight line between the mid points of the front and rear lot lines.
- (P) "Lot, Flag" means a lot with narrow frontage and a long driveway or strip of land connecting with a street.
- (Q) "Lot, Interior" means a lot other than a corner lot.
- (R) "Lot, Key" means an interior lot adjacent to a corner lot, the side lot of which is contiguous with the rear lot line of the corner lot.
- (S) "Lot Line" means any property line bounding a lot.
 - (1) "Lot Line, Exterior" means a property line abutting a public or private road or street.
 - (2) "Lot Line, Front" means the line separating the front of the lot from the street right-of-way. When a lot or buildings site is bounded by a public street and one (1) or more alleys or private easements or private streets, the front line shall be the lot line that is nearest to the public street. In the case of a flag lot, the front lot line shall also include the lines, or portion of lines, on both sides of the strip of land that connects the lot with the

street, the line that is closest to and generally parallel to the street right-of-way, and the line that is established by projecting the line that intersects the strip of land, across the strip of land. In the case of irregular frontage or access, the front lot line shall be determined by the Coastal Permit Administrator.

- (3) "Lot Line, Rear" means the most distant lot line opposite and parallel to the front lot line; in the case of an irregular lot, the line most closely paralleling the front lot line.
- (4) "Lot Line, Side" means any lot line other than a front or rear lot line. A lot line separating a lot from a street shall be the street-side lot line.
- (5) "Lot Line, Street" means any lot line abutting on a street.
- (6) "Lot Line, Nonconforming" means a lot which has been lawfully separated from adjoining property by map or a metes and bounds description as on a deed but does not meet the standards required of a lot or building site.
- (T) Lot Size. See Lot Area.
- (U) "Lot, Width" means the horizontal distance between side lot lines measured at the front yard setback line.
- (V) "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, 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 that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Division.

Section 6: Section 20.316.010 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.316.010 - Family Residential.

The Family Residential use type refers to the residential occupancy of dwelling units by families on a monthly or longer basis. Typical uses include occupancy of dwelling or apartment. ADUs and JADUs are considered an accessory use and are not counted as dwelling units for purposes of the Family Residential definition. The following are family residential use types:

- (A) **Family Residential: Single-Family.** The use of a parcel for only one (1) dwelling unit.
- (B) **Family Residential: Two-Family.** The use of a parcel for two (2) dwelling units within a single building.
- (C) **Family Residential: Multifamily.** The use of a parcel for three (3) or more dwelling units in one (1) building.
- (D) **Family Residential: Dwelling Groups.** The use of a parcel for more than one (1) but not more than four (4) single-family dwellings. On the Remote Residential, Agricultural, Range Land, Forest Land, and Timber Land Production Districts, open space easements or other methods may be required on all open space land not included in the residential development area. ADUs and JADUs are not permitted on parcels where a dwelling group is approved.

- (E) **Family Residential: Cluster Development.** The use of a parcel for more than four (4) dwelling units when clustered to enhance and protect the agriculture or natural resources of a site. Typical uses are single-family, two (2) family, or multiple-family units which shall meet the requirements in Chapter 20.412 (Clustering Development Combining District). ADUs and JADUs are not permitted on parcels where a cluster development is approved.
- (F) **Family Residential: Boarding House.** The use of a building or portion thereof, other than an inn, bed and breakfast, hotel, motel, hostel, vacation home rental, or student/instructor temporary housing, where regular meals and/or lodging are provided for compensation or profit by prearrangement for periods of thirty (30) days or more for three (3) or more persons who do not constitute a family.

Section 7: Section 20.456.015 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.456.015 - Residential and Agricultural Use Types.

Subject to the restrictions and limitations of this Chapter, including the granting of a Coastal Development Permit, where applicable, the following accessory buildings and uses shall be permitted in all zoning districts which allow a single-family residence:

- (A) **Private garages.**
- (B) **Children's playhouse, patios, porches, gazebos, etc.**
- (C) **Windmills.**
- (D) **Shops** (non-business purposes).
- (E) **Barns.**
- (F) **Private swimming pools and hot tubs** (not subject to setback requirements in the side or rear yards of any district).
- (G) **Accessory Living Unit.** Not more than one guest cottage or detached bedroom may be permitted on each legal parcel. An ADU and/or a JADU may also be permitted, subject to the limitations established in Chapter 20.458.
- (H) **Room and Board.** The renting of not more than one (1) room for occupancy by transient guests for compensation or profit, except on properties with an ADU and/or a JADU where such use shall be prohibited.
- (I) **Day care center, family care home, or school,** for six (6) or less persons.
- (J) **Travel Trailer or Camper.** The maintaining of one (1) travel trailer or camper in dead storage where it is not used for occupancy or business purposes. All stored travel trailers or campers in excess of one (1) shall be stored out of sight from a public right-of-way. The connection, for any continuous period exceeding forty-eight (48) hours, of any utility or service such as electrical, water, gas or sewage to the travel trailer or camper shall be prima facie evidence that it is being used for habitation or business purposes.
- (K) **Home Occupations.** Subject to Chapter 20.448.
- (L) **Household Pets.** The keeping of dogs and cats and other household pets, but not including kennels.
- (M) **Accessory Parking.**

- (1) The parking of one (1) large vehicle or construction equipment upon private property forty thousand (40,000) square feet or less in size.
- (2) The parking of two (2) large vehicles or construction equipment upon private property greater than forty thousand (40,000) square feet but less than five (5) acres.
- (3) The parking of three (3) large vehicles or construction equipment upon private property in excess of five (5) acres.
- (4) Nothing in this subsection shall restrict the number of vehicles or construction equipment used by the property owner for their own agricultural or home use.

As used in this subsection "large vehicle" shall mean vehicles of three-ton tare (unladen weight).

- (N) **Public Access.** The offer to dedicate and acceptance of a dedication for an accessway except that the construction of a public access trail and/or construction of a staircase accessway on a bluff face (as determined by the Department of Planning and Building Services) will require a Coastal Development Use Permit.
- (O) **Other Necessary and Customary Uses.** Accessory non-residential uses and non-residential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal permitted use, as determined by the Director of Planning and Building Services.

Section 8: The title of Chapter 20.458 of the Mendocino County Code is hereby amended to read as follows:

Chapter 20.458 - ACCESSORY DWELLING UNITS

Section 9: Section 20.458.005 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.458.005 - Declaration.

The intent of this chapter is to regulate the creation of ADUs and JADUs in all zones within the unincorporated areas of the Coastal Zone of Mendocino County as required by Section 65852.2 and Section 65852.22 of the California Government Code, as amended. Section 65852.2 and Section 65852.22 establish specific requirements for the regulation of ADUs and JADUs with the goal of increasing statewide availability of smaller, more affordable housing units. In accordance with Section 65852.2, ADUs and JADUs are not considered new residential units for the purpose of calculating residential density. This chapter is intended to protect coastal resources when regulating ADUs and JADUs in the Coastal Zone, while also complying with the standards in Section 65852.2 and Section 65852.22 to the greatest extent feasible.

Section 10: Section 20.458.010 of the Mendocino County Code is hereby amended in its entirety to read as follows:

Section 20.458.010 - Cap on Number of Accessory Dwelling Units.

The number of permitted ADUs within the Coastal Zone outside of the Gualala Town Plan area shall be limited to five hundred (500) units. JADUs are exempted from this cap.

Any change to the cap on the number of ADUs shall require a Local Coastal Program amendment. Prior to a Local Coastal Program amendment to modify the cap, a traffic analysis shall be prepared to evaluate impacts associated with proposed ADU allowances and future growth on the capacity of State Route 1 in the Coastal Zone of Mendocino County.

Within the Gualala Town Plan area, a maximum of one hundred (100) ADUs may be permitted. JADUs are exempted from this cap. When this number has been reached, a review shall be conducted to determine if ADUs are meeting the intent of providing additional affordable housing and whether additional ADUs can be accommodated. Any change to the maximum number of ADUs in the Gualala Town Plan area shall require a Local Coastal Program amendment. Prior to a Local Coastal Program amendment to increase or remove the cap, the County shall provide information that demonstrates that the plan area has adequate water and sewer capacity for projected buildout and a traffic analysis shall be prepared to evaluate impacts associated with proposed ADU allowances and future growth on the capacity of State Route 1 in Gualala and the surrounding Coastal Zone area.

Section 11: Section 20.458.015 of the Mendocino County Code is hereby amended in its entirety to read as follows:

Section 20.458.015 - Permit.

ADUs or JADUs may be permitted in any zone that allows residential uses as a permitted or conditional use ADUs or JADUs may be permitted in accordance with one of the following determinations:

- (A) Determined to be exempt from the requirement to obtain a coastal development permit pursuant to Section 20.532.020; or
- (B) Determined to meet the criteria for a coastal development ministerial permit pursuant to Section 20.532.015(B); or
- (C) Determined to require a coastal development permit pursuant to Section 20.532.015 (A).

Section 12: Section 20.458.020 of the Mendocino County Code is hereby amended in its entirety to read as follows:

Section 20.458.020 - General Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units.

ADUs and JADUs shall conform to the following standards:

- (A) An ADU or JADU shall only be permitted on a parcel that either contains an existing or proposed single-family dwelling. A proposed single-family dwelling means a dwelling that is the subject of a coastal development permit or Categorical Exclusion application and that meets the requirements for permitting. A ministerial or administrative coastal development permit application for an ADU or JADU submitted with the permit application for the proposed single-family dwelling shall be acted on after the application for the proposed single-family dwelling has been acted on and all appeal periods have ended. A certificate of

occupancy for an ADU shall not be issued before the certificate of occupancy is issued for the primary dwelling.

- (B) An ADU may be attached to the single-family dwelling or located in a detached, separate structure.
- (C) An existing legally-authorized accessory structure, accessory living unit, or family care unit may be converted into an ADU consistent with the provisions of this Chapter.
- (D) Where a dwelling group or parcel clustering is approved, no ADU or JADU shall be allowed.
- (E) ADUs and JADUs may be rented separate from the primary residence but may not be sold or otherwise conveyed separate from the primary residence except when the primary dwelling and the ADU are built by a qualified non-profit corporation and the ADU will provide low-income housing in accordance with California Government Code Section 65852.26.
- (F) ADUs and JADUs are intended to increase the supply of non-transient housing. Restrictions regarding use of ADUs and/or JADUs as vacation home rentals are as follows:
 - (1) In the coastal zone, on a property with an ADU and/or JADU, use of an ADU or JADU or any dwelling for transient habitation shall be prohibited. Existing licensed vacation home rentals in legal, non-conforming ADUs shall be phased out as business licenses are abandoned or expire. Vacation home rental licenses shall not be transferable to another location, person, or entity, except that the property owner may transfer the license to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the property owner serves as a trustee, which shall not be deemed a change of ownership for purposes of Section 6.04.070(g) of the County Code.
 - (2) Prior to obtaining a building permit for an ADU or JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include (a) the prohibition on the use of any dwelling for transient habitation and (b) for ADUs and JADUs proposed within 125 feet of the bluff edge that require the construction of a new structure, result in an expansion of an existing structure, or require repair or improvements to an existing structure to the extent that it constitutes a replacement structure pursuant to section 13252 of Title 14, California Administrative Code, a prohibition on the development of bluff or shoreline protective devices to protect the ADU or JADU from bluff retreat, erosion, or other coastal hazards in the future. The deed restriction shall run with the land, and be binding upon any future owners, heirs, or assigns.

Section 13: A new Section 20.458.025 is added to the Mendocino County Code as follows:

Section 20.458.025 - Specific Standards for Accessory Dwelling Units.

ADUs are subject to the following specific standards and criteria:

- (A) In the coastal zone outside of the Gualala Town Plan area, on properties with zoning classifications that do not allow multi-family residential uses, an ADU shall not be allowed if more than one (1) dwelling unit (including farm employee

housing, farm labor housing, temporary family care unit, but not including a JADU) is located on the parcel, and/or if there currently exists more than one guest cottage and/or detached bedroom on the parcel.

- (B) On properties with zoning classifications that allow multi-family residential units (i.e., Commercial, Suburban Residential, Gualala Village Mixed Use, Gualala Highway Mixed Use, or Gualala Planned Development) and which have existing two-family or multifamily dwelling structures, at least one ADU shall be allowed within an existing two-family or multifamily structure. Multiple ADUs up to 25 percent of the existing multifamily dwelling units may be allowed if each ADU complies with State building standards for dwellings. No more than two detached ADUs shall be permitted on a parcel with an existing multifamily dwelling.
- (C) In the coastal zone outside of the Gualala Town Plan area, on properties with zoning classifications that allow multi-family residential units which have an existing single-family dwelling, an ADU and a JADU may be allowed, in addition to a guest cottage and/or detached bedroom.
- (D) ADUs shall conform to height, setback, site plan review, fees, charges and other zoning requirements generally applicable to residential construction within the zone in which the ADU is located with the following exceptions:
 - (1) An existing legally-authorized accessory structure which does not meet front, rear or side yard setback requirements may be converted to an ADU or reconstructed to the same dimensions as the existing structure and converted to an ADU and would not be considered an expansion of a legal, non-conforming use unless the conversion increases the non-conformity of the structure.
 - (2) A minimum setback of no more than four (4) feet from the side and rear lot lines shall be required for an ADU.
- (E) ADUs are subject to the following floor area limitations:
 - (1) For a detached ADU, total floor space may not exceed 1,200 square feet.
 - (2) For an attached ADU, total floor space may not exceed 1,200 square feet or 50 percent of the floor space of the existing or proposed single-family dwelling, whichever is less. In no instance shall the floor space of an attached ADU be restricted to less than 1,000 square feet for an attached ADU that provides more than one bedroom or less than 850 square feet for an attached ADU that provides one or less bedroom.
- (F) See Section 20.458.035 for additional and more restrictive standards for ADUs on properties within the Gualala Town Plan area.

Section 14: A new Section 20.458.030 is added to the Mendocino County Code as follows:

Section 20.458.030 - Specific Standards for Junior Accessory Dwelling Units.

JADUs are subject to the following specific standards and criteria:

- (A) In the coastal zone outside of the Gualala Town Plan area, a JADU may be allowed on a legal parcel in addition to one single-family dwelling, an ADU, and a maximum of one other accessory living unit (i.e., detached bedroom or guest cottage).

- (B) After January 1, 2025, a JADU may only be established when either the single-family residence in which the JADU is created or the JADU will be occupied by the owner of the residence.
- (C) No more than one JADU may be located on a parcel.
- (D) A JADU must be contained entirely within a legally-authorized single-family dwelling and total floor space may not exceed 500 square feet.
- (E) A JADU may be located within an existing legally-authorized single-family dwelling that does not meet setback requirements and it would not be considered an expansion of a legal non-conforming structure unless the conversion increases the non-conformity of the structure.
- (F) A separate entrance to the JADU shall be provided.
- (G) A JADU may share a bath with the single-family dwelling or have its own bath.
- (H) A JADU is required to include an efficiency kitchen as defined in Section 20.308.040(B).
- (I) For the purposes of fire and life protection ordinances and regulations, a JADU is to be considered part of the single-family dwelling.
- (J) Prior to obtaining a building permit for a JADU, a deed restriction, approved by the County, shall be recorded with the County Recorder's office, which shall include the pertinent restrictions and limitations of a JADU including, but not limited to, the prohibition on use of the unit for transient habitation, restrictions on size, and prohibition on sale separate from the sale of the single-family dwelling, which shall run with the land, and be binding upon any future owners, heirs, or assigns.
- (K) See Section 20.458.035 for additional and more restrictive standards for JADUs on properties within the Gualala Town Plan area.

Section 15: A new Section 20.458.035 is added to the Mendocino County Code as follows:

Section 20.458.035 - Specific Standards for Accessory Dwelling Units and Junior Accessory Dwelling Units in the Gualala Town Plan Area.

ADUs and JADUs in the Gualala Town Plan area are subject to all of the standards and requirements of this Chapter in addition to the following more restrictive standards:

- (A) An ADU or JADU may not be permitted on parcels where there is more than one (1) dwelling unit (including temporary family care unit) or a guest cottage or detached bedroom.
- (B) ADUs or JADUs are prohibited on parcels that are located west of State Route 1.
- (C) On parcels that are less than one-half (0.5) acre in size, ADUs shall be required to be attached to the primary residence or as a second-story to a detached garage.

Section 16: A new Section 20.458.040 is added to the Mendocino County Code as follows:

Section 20.458.040 - Public Health and Safety Requirements.

- (A) ADUs and JADUs shall comply with applicable local building code requirements. Fire sprinklers, however, shall not be required in an ADU or JADU if they are not required in the single-family dwelling.

- (B) The Division of Environmental Health shall review and approve the availability and adequacy of the water system for all ADUs and any JADUs that are not exempt from CDP requirements pursuant to Section 20.532.020(G) and result in the creation of additional bedrooms. An adequate water supply must be available to serve the proposed new residence as well as existing residences on the property. If the property is located in a service district, the property owner must provide written approval from the service district specifically authorizing the connection of the ADU.
- (C) The Division of Environmental Health shall review and approve the availability and adequacy of the sewage disposal system for all ADUs and any JADUs that are not exempt from CDP requirements pursuant to Section 20.532.020(G) and result in the creation of additional bedrooms. Adequate sewage capacity must be available to serve the proposed new residence as well as existing residences on the property. If the property is located in a service district, the property owner must provide written approval from the service district specifically authorizing the connection of the ADU.
- (D) For ADUs, a preliminary clearance letter from CalFire shall be required for all ADUs on properties within a State Responsibility Area (SRA). For properties within a Local Responsibility Area, a letter shall be required from the local fire district indicating that all fire safety requirements can be satisfied. A letter from the local fire district shall also be required for properties within an SRA if the local fire district requests that ADU applications be referred for review and approval.
- (E) ADUs are prohibited in areas designated as Floodplain ("FP") Combining District and/or designated special flood hazard areas which are shown on Flood Insurance Rate Maps as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

Section 17: A new Section 20.458.045 is added to the Mendocino County Code as follows:

Section 20.458.045 - Coastal Resource Protections.

All ADUs shall comply with the following requirements for the protection of coastal resources; JADUs shall comply where applicable:

- (A) ADUs and JADUs may not be located within 100 feet of the boundary of an Environmentally Sensitive Habitat Area unless contained entirely within a legally authorized existing or approved residential structure that will not be repaired or improved to the extent that it constitutes a replacement structure under section 13252 of Title 14, California Administrative Code. All new development associated with an ADU (well, water storage, septic improvements, parking and driveways, vegetation removal for fire safety, etc.) must also be located more than 100 feet from the boundary of an Environmentally Sensitive Habitat Area. An exception to these requirements may be authorized through the administrative coastal development permit process in circumstances where the development is consistent with the standards established in Chapter 20.496.
- (B) ADUs and JADUs may not be located within 125 feet of the edge of a coastal bluff unless contained entirely within a legally-authorized existing or approved residential structure that will not be repaired or improved to the extent that it constitutes a replacement structure under section 13252 of Title 14, California Administrative Code. All new development associated with an ADU or JADU must also be located more than 125 feet from the edge of a coastal bluff. An exception to these requirements may be authorized through the administrative

coastal development permit process where the development is consistent with the standards established in Chapter 20.500.

- (C) An ADU may not be located within a Highly Scenic Area unless the ADU would be permanently and entirely blocked from view from all public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. An exception to this requirement may be authorized through administrative coastal development permit process in circumstances where the development is consistent with the standards established in Chapter 20.504. ADUs located outside of Highly Scenic Areas that are visible from a public viewpoint shall be of a similar architectural style, building materials and colors as the primary residences on the property.
- (D) An ADU may not be permitted if the total amount of grading associated with construction of the ADU is more than 20 cubic yards. An exception to this requirement may be authorized through the administrative coastal development permit process, as applicable, in circumstances where the grading is consistent with the standards established in Chapter 20.492.
- (E) The following standards are established for the protection of agricultural and timber resources in the Coastal Zone:
 - (1) On parcels zoned AG, RL, FL or TPZ, a detached ADU may only be permitted, if it is setback no greater than 100 from the existing or proposed legally-authorized primary residence and relies on the primary residence's driveway or another legally-authorized existing driveway. An ADU established within a legally-authorized residential structure existing as of the effective date of the ordinance establishing these requirements is exempt from these requirements.
 - (2) On parcels zoned AG or RL, an ADU may not be located on land designated "Prime Agricultural Land." On parcels zoned AG or RL, development associated with ADUs and JADUs (wells, water storage, septic improvements, parking and driveways, vegetation removal for fire safety, etc.) shall not encroach beyond the existing residential development footprint onto lands suitable for agriculture. An exception to these requirements may be authorized through the administrative coastal development permit process, as applicable, in circumstances where the applicant can demonstrate, through consistency with the Supplemental Findings contained in Section 20.532.100(A)(2) and (B), as applicable, that the ADU will not impact the long-term productivity of the agricultural land and that the ADU is compatible with the commercial growing and harvesting of timber.
 - (3) On parcels zoned FL and TPZ, an ADU may only be permitted in locations where no major vegetation removal or harvesting is necessary. On parcels zoned FL or TPZ, development associated with ADUs and JADUs (wells, water storage, septic improvements, parking and driveways, vegetation removal for fire safety, etc.) shall not encroach beyond the existing residential development footprint onto lands suitable for timber production. An exception to these requirements may be authorized through the administrative coastal development permit process, as applicable, in circumstances where the applicant can demonstrate through consistency with the Supplemental Findings contained in Section 20.532.100(A)(2), that the ADU will not impact the

long-term productivity of soils and timberlands and that the ADU is compatible with the commercial growing and harvesting of timber.

- (F) An ADU may not be permitted in a residential area on a parcel within 200 feet of lands that are designated AG, RL, FL or TPZ unless it is attached to an existing legally-authorized residence and does not extend further into the setback from the parcel with AG, RL, FL or TPZ zoning. In such cases, the ADU would not be considered an expansion of a legal, non-conforming use.
- (G) An ADU may not interfere with a public or prescriptive easement for access to the blufftop and/or shoreline.
- (H) An ADU may not be permitted in an area designated as Development Limitations ("DL") Combining District and/or Seismic Study ("SS") Combining District unless a report, prepared by a licensed engineer can demonstrate that the proposed development is consistent with the standards established in Chapter 20.416, and Chapter 20.432, respectively.
- (I) ADUs may not be permitted on a property with known archaeological resources unless an administrative coastal development permit is applied for and received and where reasonable mitigation measures shall be employed to protect archaeological resources.

Section 18: A new Section 20.458.050 is added to the Mendocino County Code as follows:

Section 20.458.050 - Parking Requirements.

The following requirements and standards for off-street parking shall apply to ADUs and JADUs:

- (A) No additional parking is required for a JADU.
- (B) ADUs which meet any one of the following criteria are exempt from the parking requirements in this section:
 - (1) Located within one-half mile walking distance of a public transportation stop along a prescribed route according to a fixed schedule.
 - (2) Located within one block of a car share parking spot.
 - (3) Located entirely within the primary residence and the ADU does not result in a net increase in habitable floor area on the property.
 - (4) Located in an area where on-street permit parking is required, but such permits are not available to the tenant.
 - (5) Located within a designated historic district.
- (C) One parking space is required per ADU and the space may be provided through tandem parking.
- (D) Parking for ADUs is allowed in front, rear and side setback areas.

Section 19: Section 20.472.015 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.472.015 - Residential.

- (A) Single-family detached dwelling or mobile home: two (2) parking spaces.

- (B) Duplex: two (2) parking spaces for each unit.
- (C) Multiple-family/apartment/condominiums: one (1) parking space up to one (1) bedroom, one and one-half (1.5) parking spaces for two (2) bedrooms, two (2) parking spaces per unit for three (3) or more bedrooms.
- (D) Mobile home parks: two (2) parking spaces for each mobile home space.
- (E) ADU: one (1) parking space per unit. See Chapter 20.458 (Accessory Dwelling Units).
- (F) JADU: no parking required. See Chapter 20.458 (Accessory Dwelling Units).

Section 20: Section 20.532.015 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.532.015 - Permit Requirements.

Permits required by this Chapter must be secured prior to any development in the Mendocino County Coastal Zone.

- (A) **Coastal Development Administrative Permit.** The purpose of a Coastal Development Administrative Permits is to provide for the administrative issuance of coastal development permits. The Coastal Permit Administrator may process as an administrative permit any coastal development permit application for the types of projects specified below, and emergency projects specified in Section 20.536.055. Development projects which are appealable to the Coastal Commission, including any division of land, shall not be processed as an administrative permit, except for ADUs and JADUs as specified in Section 20.458.045.
 - (1) Any single-family residence that is a principal permitted use within the zoning district in which the development site is located;
 - (2) Any other development specifically authorized as a principal permitted use within the zoning district in which the development site is located;
 - (3) Improvements to an existing structure;
 - (4) Any other developments not in excess of one hundred thousand dollars (\$100,000) other than any division of land;
 - (5) Any other development that is not appealable to the Coastal Commission if the Coastal Permit Administrator determines that it involves no potential for any adverse effects, either individually or cumulatively, on coastal resources, and that it will be consistent with the Certified Local Coastal Program and the public access policies of Chapter 3 of the Coastal Act. The determination shall be made in writing and based upon factual evidence.
 - (6) Any ADU or JADU that meets all of the requirements for a coastal development ministerial permit except for the objective requirements established in Section 20.458.045 and for which an exception to those requirements may be granted through the coastal development administrative permit process. A coastal development administrative permit for an ADU and/or JADU is not appealable to the Board of Supervisors but may be appealable to the Coastal Commission.

- (B) **Coastal Development Ministerial Permit.** The purpose of a coastal development ministerial permit is to provide for the administrative issuance of coastal development permits for ADUs which comply with the objective requirements specified in Section 20.458.045. Coastal development ministerial permits may be approved by the Director or his/her designee. Approval of a coastal development ministerial permit requires findings of consistency with Chapter 20.458 as well as the required and supplemental findings specified in Sections 20.532.095 and 20.532.100, as applicable. A public hearing is not required for coastal development ministerial permits and they are not appealable to the Board of Supervisors. For development located within the appeal jurisdiction of the California Coastal Commission, coastal development ministerial permits are appealable to the Coastal Commission.
- (C) **Coastal Development Use Permit.** A use permit must be secured, pursuant to the requirements of these regulations prior to the initiation, modification or expansion of a use or development that is permitted only as a conditional use in a particular district.
- (D) **Coastal Development Variance.** Variances are discretionary adjustments in the regulations contained in this Division. Variances may only be granted to allow deviations from standards governing such development conditions as setbacks, lot coverage and lot width.
- (E) **Coastal Development Standard Permit.** A coastal development standard permit must be secured for any other activity not specified above which is defined as a development in Section 20.308.035(D), including, but not limited to, land divisions, lot line adjustments and any other entitlement for use.

Section 21: Section 20.532.020 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.532.020 - Exemptions.

The following developments shall be exempt from this Chapter:

- (A) Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted;
- (B) Activities of public utilities as specified in the Repair, Maintenance and Utility Hookup Exclusion adopted by the Coastal Commission on September 5, 1978;
- (C) Improvements to single family residences except as otherwise specified in Subchapter 6, Title 14, California Administrative Code and any amendments thereafter;
- (D) Improvements to any structure other than single family residence or a public works facility, except as otherwise specified in Subchapter 7.5, Title 14, California Administrative Code and any amendments thereafter;
- (E) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform with Section 20.480.020, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk, of the destroyed structure by more than ten percent

(10%) and shall be sited in the same location on the affected property as the destroyed structure;

- (F) Within the Gualala Town Plan planning area, structures which are destroyed by involuntary means or forces out of control of the owner(s), provided that the structure reconstructed after involuntary loss does not exceed the floor area, height, or bulk of the previously existing structure by more than ten percent (10%), restoration is started within one (1) year of the destruction, and the structure conforms to this Division;
- (G) ADUs, JADUs and associated physical development may be exempted from this Chapter when such development is found to be consistent with subsection (C), above.

As used in this section "disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owners.

As used in this section, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

As used in this section "structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

Section 22: Section 20.532.045 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.532.045 - Authority to Act on Coastal Development Permit.

Upon completion of project review and evaluation, the action to approve, conditionally approve, or deny a coastal development permit shall be taken by:

- (A) The Director or his/her designee in the case of coastal development ministerial permits;
- (B) The Coastal Permit Administrator in the case of coastal development standard permits for principal permitted uses and coastal development administrative permits; and
- (C) The Planning Commission in the case of coastal development permits for conditional uses and divisions of land.

Section 23: Section 20.532.055 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.532.055- Time Periods.

- (A) For all applications except for applications to create an ADU or JADU, within one hundred eighty (180) days of filing of a complete application for a coastal development permit, the Director, Coastal Permit Administrator or Planning Commission shall take such action as is specified in Section 20.532.050. The one hundred eighty (180) day time period may be extended once for a period not to exceed ninety (90) days with the written consent of the applicant and the Department.
- (B) For applications to create an ADU or JADU, action shall be taken within sixty (60) days of filing of a complete application for a coastal development permit

exemption, Categorical Exclusion or coastal development permit. The 60-day time period for acting on a complete application for an ADU or JADU submitted with a permit application for a proposed single-family dwelling shall not commence until after the application for the single-family dwelling has been acted on and all appeal periods have ended.

- (C) If the Director, Coastal Permit Administrator or Planning Commission does not act within the specified time period or extension thereof, the applicant may seek remedy to resolve the undecided permit request as set forth in California Government Code Section 65956. The date of the actual filing of the application for the purposes of this Division shall be the date of the environmental determination as required by local and state environmental review procedures.

- (D) Failure to act – notice.

Notification by Applicant. If the County has failed to act on an application within the time limits set forth in Government Code Sections 65950-65957.1, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Sections 65950-65957.1 shall notify, in writing, the County and the Coastal Commission of his or her claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

Notification by County. When the County determines that the time limits established pursuant to Government Code Sections 65950—65957.1 or Government Code Section 65852.2 for an ADU or a JADU have expired, the County shall, within seven (7) calendar days of such determination, notify any person entitled to receive notice pursuant to Title 14, California Code of Regulations Section 13571(a) that the application has been approved by operation of law pursuant to Government Code Sections 65950-65957.1 and the application may be appealed to the Coastal Commission pursuant to Section 20.544.020. This Section shall apply equally to a County determination that the project has been approved by operation of law and to a judicial determination that the project has been approved by operation of law.

- (E) When an application for a coastal development permit has been deemed approved by failure to act, such approval shall be subject to the notice requirements of Section 20.536.005(D) or, for coastal development ministerial permits, the notice requirements of Section 20.536.010(C).

Section 24: Sections 20.536.025 through Section 20.536.055 of the Mendocino County Code are hereby renumbered as follows:

Section 20.536.055 - Permits for Approval of Emergency Work is hereby renumbered to be Section 20.536.060.

Section 20.536.050 - Notice to Assessor is hereby renumbered to be Section 20.536.055.

Section 20.536.045 - Nuisance is hereby renumbered to be Section 20.536.050.

Section 20.536.040 – Reapplication is hereby renumbered to be Section 20.536.045.

Section 20.536.035 - Assignment of Permits is hereby renumbered to be Section 20.536.040.

Section 20.536.030 - Revocation or Modification by the County is hereby renumbered to be Section 20.536.035.

Section 20.536.025 – Renewal is hereby renumbered to be Section 20.536.030.

Section 25: Section 20.536.020 of the Mendocino County Code is hereby renumbered to be Section 20.536.025 and amended to read as follows:

Sec. 20.536.025 - Application for Permit Amendment.

Any person holding a coastal development permit may apply for a permit amendment by complying with Section 20.532.025 (Application and Fee). For the purposes of this section, the amendment of a coastal development permit may include amendment of the terms of the permit itself, the waiver or alteration of conditions imposed pursuant to Sections 20.532.030 through 20.532.055.

- (A) **Definition of Permit Amendment.** An amendment to a coastal development permit shall be processed in accordance with Section 20.532.025 when an applicant is requesting any change to the development project that was the subject of the approved coastal development permit. When, in the opinion of the Director, a major revision constituting substantial alteration in the permit is requested, an amendment shall not be processed, and a new coastal development permit application must be made.
- (B) **Amendment to Ministerial Permits.**
 - (1) Amendments to ministerial permits may be approved by the Director or his/her designee based upon the same criteria and subject to the same reporting requirements and procedures as provided for issuance of ministerial permits in Section 20.536.010.
 - (2) If any amendment would, in the opinion of the Director or his/her designee, change the nature of the project so that it no longer meets the criteria established for treating the application as a ministerial permit pursuant to Section 20.536.010, then the application shall thereafter be treated in the manner prescribed by Section 20.536.025(C)(2) dealing with amendments to permits other than ministerial and administrative permits.
- (C) **Amendment to Administrative Permits.**
 - (1) Amendments to administrative permits may be approved by the Coastal Permit Administrator upon the same criteria and subject to the same reporting requirements and procedures, including public notice and appeals, as provided for issuance of administrative permits in Section 20.536.005.
 - (2) If any amendment would, in the opinion of the Coastal Permit Administrator, change the nature of the project so that it no longer meets the criteria established for treating the application as an administrative permit pursuant to Section 20.532.015, then the application shall thereafter be treated in the manner prescribed by Section 20.536.025(C)(2) dealing with amendments to permits other than administrative permits.
- (D) **Amendment to Permits other than Ministerial Permits and Administrative Permits.**

- (1) The Director shall determine whether or not a proposed amendment is a material change to the approved permit. If the Director determines that the proposed amendment is immaterial, notice of such determination shall be posted at the project site. Notice of such determination also shall be given as provided in Section 20.536.005(D). If no written objection to the amendment is received within ten (10) working days of the notice, the determination of immateriality shall be conclusive and the amendment effective.
- (2) If the Director determines that the proposed amendment is a material change or if written objection is made to the determination of conditions that were required for the purpose of protecting a coastal resource or coastal access consistent with the findings required by Chapter 20.532, the application shall be referred to the approving authority having original jurisdiction over the coastal development permit. The material amendment shall be subject to the hearing and notice requirements of Section 20.536.015.

Section 26: Section 20.536.010 of the Mendocino County Code is hereby renumbered to be Section 20.536.015 and amended to read as follows:

Sec. 20.536.015 - Coastal Development Permit Hearing and Notice Requirements.

- (A) **Purpose.** The purpose of this section is to provide for the issuance of coastal development permits for those types of development projects which are not ministerial, administrative or emergency permits.
- (B) **Hearing.** The approving authority shall hold at least one public hearing on each coastal development application for an appealable development or for a non-appealable development which requires a public hearing pursuant to other provisions of this Division. The public hearing may be conducted in accordance with existing local procedures or in any other manner reasonably calculated to give interested persons an opportunity to appear and present their viewpoints, either orally or in writing. The hearing shall occur no earlier than ten (10) calendar days following the mailing of the notice required in Subsection (C) below.
- (C) **Notice.** At least ten (10) calendar days prior to the first public hearing on the development proposal, the Coastal Permit Administrator shall provide notice by first class mail of a pending application for a development subject to this section. This notice shall be provided to each applicant, to all persons who have requested to be on the mailing list for that development project or for coastal decisions, to all property owners within three hundred (300) feet of the perimeter of the parcel on which the development is proposed, to all occupants of property within one hundred (100) feet of the perimeter of the parcel on which the development is proposed, and to the Coastal Commission. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership.
- (D) **Content of Notice.** The notice shall contain the following information:
 - (1) A statement that the development is within the coastal zone;
 - (2) The date of filing of the application and the name of the applicant;

- (3) The number assigned to the application;
- (4) A description of the development and its proposed location;
- (5) The date, time and place at which the application will be heard by the approving authority;
- (6) A brief description of the general procedure concerning the conduct of hearing and local actions; and
- (7) The system for local and Coastal Commission appeals, including any fee(s) that may be required.

If a hearing on a coastal development permit is continued to a time which has not been stated in the initial notice or at the public hearing, notice of the continued hearing shall be provided in the same manner and within the same time limits as required in Subsection (C) above.

- (E) **Final Action.** A decision on a coastal development permit application shall not be deemed complete until:
 - (1) The decision has been made and all required findings have been adopted, and
 - (2) When all local rights of appeal have been exhausted in accordance with Chapter 20.544.
- (F) **Notice of Final Action.** Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
 - (1) The applicant;
 - (2) Any person who specifically requested, in writing, notice of such final action; and
 - (3) The Coastal Commission.
 - (4) The County Assessor.
- (G) **Effective Date.** Decisions of the approving authority on an application for a development appealable to the Coastal Commission shall become final and effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. If the notice of final action is defective and does not contain information pursuant to Section 20.536.015(D) and Section 20.532.095(B)(1), if applicable, the permit decision will be stayed and will not become effective after expiration of the ten (10) working day appeal period. Where an application for a development is not appealable to the Coastal Commission, the decision of the approving authority shall become final and effective on the eleventh day following the action of the approving authority to approve or deny the coastal permit unless prior to said eleventh day an appeal of the decision is filed as provided by Chapter 20.544.

Section 27: A new Section 20.536.010 is hereby added to the Mendocino County Code to read as follows:

Sec. 20.536.010- Coastal Development Ministerial Permits.

- (A) **Purpose.** The purpose of this section is to provide for the ministerial issuance of coastal development permits for ADUs that meet the requirements specified in Chapter 20.458.

- (B) **Action.** The Director or his/her designee shall act on a coastal development ministerial permit without the requirement of a public hearing. Any permit approved by the Director or his/her designee for an accessory dwelling unit located in an area within the appeal jurisdiction of the California Coastal Commission shall contain a statement that the permit will not be effective until the appeal period to the California Coastal Commission has expired and no appeal has been filed.
- (C) **Noticing.** Notice that the Director or his/her designee intends to act on a coastal development ministerial permit shall be mailed at least ten (10) calendar days prior to issuance by first class mail to:
- (1) The applicant;
 - (2) All property owners within three hundred (300) feet of the property lines of the project site, and to each occupant of property within one hundred (100) feet of the property lines of the project site. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership;
 - (3) Any person who specifically requested, in writing, notice of such final action;
 - (4) The Coastal Commission; and
 - (5) The County Assessor.
- (D) **Content of Notice.** The notice shall contain the following information:
- (1) A statement that the development is within the coastal zone;
 - (2) The date of filing of the application and the name of the applicant;
 - (3) The case file number assigned to the application;
 - (4) A description of the development and its proposed location;
 - (5) The date on which the coastal development ministerial permit was approved; and
 - (6) If the development is located in an area that is subject to the appeal jurisdiction of the California Coastal Commission, a full disclosure of the procedure(s) for Coastal Commission appeals, including any fee(s) that may be required.
- (E) **Final Action.** A decision on a coastal development ministerial permit application shall not be deemed complete until the decision has been made and all required findings have been adopted.
- (F) **Notice of Final Action.** Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
- (1) The applicant;
 - (2) Any person who specifically requested, in writing, notice of such final action;
 - (3) The Coastal Commission; and
 - (4) The County Assessor.

- (G) **Effective Date.** Decisions of the approving authority on an application for a development appealable to the Coastal Commission shall become final and effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. If the notice of final action is defective and does not contain information pursuant to Section 20.536.010(D) and Section 20.532.095(B)(1), if applicable, the permit decision will be stayed and will not become effective after expiration of the ten (10) working day appeal period. Where an application for a development is not appealable to the Coastal Commission, the decision of the approving authority shall become final and effective following the action of the approving authority to approve or deny the coastal permit.

Section 28: Section 20.536.005 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.536.005- Coastal Development Administrative Permits.

- (A) **Purpose.** The purpose of this section is to provide for the administrative issuance of coastal development permits for those types of development projects specified in Section 20.532.015 and emergency permits as provided for in Section 20.536.055.
- (B) **Action.** The Coastal Permit Administrator shall administratively approve, or conditionally approve, or deny a coastal development administrative permit without the requirement of a public hearing. Any permit approved administratively by the Coastal Permit Administrator, except for permits for ADUs and/or JADUs shall contain a statement that the permit will not be effective until it has been reported to and reviewed by the Board of Supervisors.
- (C) **Reporting.** With the exception of a coastal development administrative permit for an ADU or JADU, a coastal development administrative permit approved by the Coastal Permit Administrator shall be available on the agenda of the Board of Supervisors at its next available meeting after the permit has been approved. The Coastal Permit Administrator shall report in writing to the Board at each meeting the permits approved under this section, with sufficient description of the work authorized to allow the Board to understand the development proposed to be undertaken. If, at the meeting, at least one (1) member of the Board so requests, the permit issued shall not go into effect and the application shall be processed in accordance with Section 20.536.010.
- (D) **Noticing.** Notice that the Coastal Permit Administrator intends to act on a coastal development administrative permit for an ADU or JADU shall be mailed at least ten (10) calendar days prior to issuance. Notice that the Coastal Permit Administrator will report proposed issuance of the coastal development administrative permit to the Board of Supervisors shall be mailed at least ten (10) calendar days prior to the meeting. The notice shall be provided by first class mail to:
- (1) The applicant;
 - (2) All property owners within three hundred (300) feet of the property lines of the project site, and to each occupant of property within one hundred

(100) feet of the property lines of the project site. Where the applicant is the owner of all properties within three hundred (300) feet of the property lines of the project site, notice shall be provided to all property owners within three hundred (300) feet and to all occupants within one hundred (100) feet of the applicant's contiguous ownership;

- (3) All persons who have requested to be on the mailing list for that development project;
- (4) All persons who have furnished self-addressed and stamped envelopes and requested to be on the mailing list for development located within the Coastal Zone boundaries; and
- (5) The Coastal Commission.

(E) **Content of Notice.** The notice shall contain the following information:

- (1) A statement that the development is within the coastal zone;
- (2) The date of filing of the application and the name of the applicant;
- (3) The case file number assigned to the application;
- (4) A description of the development and its proposed location;
- (5) If the permit is for an ADU or JADU, the date upon which the coastal development administrative permit will be acted on;
- (6) If the permit will be reported to the Board of Supervisors, the date, time and place at which the application will be reported to the Board;
- (7) A brief description of the general procedure concerning the conduct of local actions, including procedures for submission of public comment prior to the decision, and identification of a comment period of sufficient time to allow for submission of comments by mail prior to the decision;
- (8) A full disclosure of the procedure(s) for local and Coastal Commission appeals, if such appeals are available, including any fee(s) that may be required.

(F) **Final Action.** A decision on a coastal development administrative permit application shall not be deemed complete until:

- (1) The decision has been made and all required findings have been adopted, and
- (2) When all local rights of appeal have been exhausted in accordance with Chapter 20.544.

- (3) A decision on a coastal development administrative permit application for an ADU or JADU that is appealable to the Coastal Commission shall become final and effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission.
- (G) **Notice of Final Action.** Notice shall be mailed within ten (10) calendar days of final action by first class mail to:
 - (1) The applicant;
 - (2) Any person who specifically requested, in writing, notice of such final action; and
 - (3) The Coastal Commission.
 - (4) The County Assessor.
- (H) **Effective Date.** Decisions of the approving authority on an application for a development that is appealable to the Coastal Commission shall become final and effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. If the notice of final action is defective and does not contain information pursuant to Section 20.536.015(D) and Section 20.532.095(B)(1), if applicable, the permit decision will be stayed and will not become effective after expiration of the ten (10) working day appeal period. Where an application for a development is not appealable to the Coastal Commission, the decision of the approving authority shall become final and effective following the action of the approving authority to approve or deny the coastal permit.

Section 29: Section 20.544.010 of the Mendocino County Code is hereby amended to read as follows:

Sec. 20.544.010 - Administrative Appeals.

- (A) Request for a hearing before the Planning Commission may be made by an aggrieved person from any decision, determination, or requirement of the Planning and Building Services Department except for decisions by the Director or his/her designee on exemptions and coastal development ministerial permits for ADUs and JADUs or by the Coastal Permit Administrator on coastal development administrative permits for ADUs and JADUs. An administrative appeal may be made by filing a notice thereof in writing with the Planning and Building Services Department within ten (10) calendar days after such decision, determination or requirement is made. Such appeal shall be accompanied by a fee.
- (B) The Planning and Building Services Department shall prepare a written report that includes its findings which shall be forwarded to the Planning Commission for action. The action of the Planning Commission is final unless appealed to the Board of Supervisors pursuant to Section 20.544.015.
- (C) Notice shall be provided pursuant to Section 20.536.015.

Section 30: Section 20.544.015 of the Mendocino County Code is hereby amended to read as follows:

Section 20.544.015 - Coastal Permit Administrator and Planning Commission Appeal

- (A) Request for hearing before the Board of Supervisors may be made by an aggrieved person from any final decision of the Coastal Permit Administrator, except for a decision on a coastal development administrative permit for an ADU or JADU, or the Planning Commission by filing a notice thereof in writing with the Clerk of the Board within ten (10) calendar days after such decision, determination or requirement is made. Such appeal shall be accompanied by a fee.
- (B) The Board of Supervisors shall hold a public hearing on the appeal, noticed in the same manner and to the same extent as initially noticed for the Coastal Permit Administrator and/or Planning Commission meeting. The Board of Supervisors, after considering the notice and Planning and Building Services Department report may remand, affirm, reverse or modify any such decision, determination or requirement as it finds in compliance with this Division and the Coastal Element of the General Plan. The Board of Supervisors shall adopt findings which specify the facts relied upon in deciding the appeal, and the findings shall state the reasons for any conditions imposed. The decision of the Board of Supervisors is final unless the decision is appealable to the Coastal Commission.
- (C) No permit or variance shall be issued for any use or structure related to the action of the Coastal Permit Administrator, Planning Commission or Board of Supervisors until the applicable appeal period has expired and no appeals have been filed with the appropriate appellate body.
- (D) Notice of the decision of the Board of Supervisors, together with a copy of the findings adopted shall be mailed within ten (10) calendar days following the date of the decision on appeal. Notice shall be provided by first class mail to the applicant and/or appellant, any person who specifically requested, in writing, notice of such decision, and the Coastal Commission. The notice shall include the written findings, any conditions of approval, and procedures for appeal where applicable.

Section 31. CEQA. This ordinance is statutorily exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080.17 which exempts local ordinances regulating construction of dwelling units and accessory dwelling units and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal programs is shifted from the County to the California Coastal Commission.

Section 32. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 33. Effective Date. This Ordinance of the County of Mendocino shall become effective upon action by the California Coastal Commission concurring with the Coastal Commission Executive Director's determination that this ordinance, as adopted, is consistent with the Coastal Commission's September 9, 2021 action certifying Local Coastal Program Amendment No. LCP-1-MEN-20-0021-1 (Accessory Dwelling Units) with Suggested Modifications.

Passed and adopted by the Board of Supervisors of the County of Mendocino, State of California, on this 9th day of November, 2021 by the following roll call vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

DAN GJERDE, Chair
Mendocino County Board of Supervisors

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

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy