

APPLICANT: COUNTY OF MENDOCINO

AGENT: PLANNING AND BUILDING SERVICES,

REQUEST: Amend and repeal the Flood Plain Combining District Ordinance within Chapter 20.120 (Inland) of Division I of Title 20 and Chapter 20.420 (Coastal) of Division II of Title 20 of the Mendocino County Code and move and replace with Chapter 22.17 combining both coastal and inland ordinances into one ordinance. The Flood Plain Combining Districts provide County guidelines for development within Federal Emergency Management Agency (FEMA) designated flood plain and floodways. The amendments are proposed to comply with recent changes in federal and state regulations primarily dealing with the establishment of lowest floor, defining alternative methodologies for determining base flood elevation in areas not specifically studied, development criteria for areas designated "coastal high hazard areas," accessory structures and clarifying and adding definitions within the ordinance.

LOCATION: All unincorporated areas within Mendocino County. The ordinance will be adopted for those areas within the designated Coastal Zone and the inland area of the County.

PROJECT DESCRIPTION: The County of Mendocino is proposing to update its regulations dealing with administration of Flood Plain Development Permits as mandated by the Federal Emergency Management Agency (FEMA). Periodically, FEMA revises its "model ordinance" in order to update standards, and mitigation from development in areas of known flood hazard is considered. The last time the County's Flood Plain Ordinance was updated was 1992. This ordinance update is also being completed in conjunction with the adoption of updated Flood Insurance Rate Maps (FIRM) which show areas of special flood hazards and the risk premium zones applicable in the county. By addressing potential flooding impacts at the development stage, it is hoped that future disasters caused by large storm events are minimized thus ultimately reducing costly rescue and rehabilitation efforts.

New development or "substantial improvements" to existing structures (defined as any improvement that is 50% or greater value of the improvement as it exists) are mandated to comply with development standards in the Flood Plain Ordinance such as structure elevation or "flood proofing" construction techniques. Development that lies within an area of known flood hazard is required to carry insurance to assist in offsetting potential costs caused by such disasters.

Failure to comply with FEMA standards would result in the loss of federal emergency relief monies that may be needed and/or more expensive flood insurance. It should be noted that FEMA does provide incentives for compliance with required regulation and for local agencies to make proactive efforts to provide a flood safe environment. Additionally, the County is required to have the revised ordinance adopted and in place by July 2017 before the new FEMA maps are adopted. A point system has been established which rates local jurisdictions for compliance with flood safe regulation and awards credit if a local jurisdiction goes beyond minimum standards for flood safe construction. For example, the minimum standard required for new construction is to be at the "base flood elevation" (BFE), which is the predicted high water elevation of a 100-year storm event. If a local jurisdiction establishes a greater standard,

such as one or two feet above the BFE, points would be awarded that community resulting in significant savings in annual flood insurance premiums for homeowners.¹

The State Department of Water Resources (DWR) periodically audits local jurisdictions to insure that the agency charged with flood plain development compliance is properly administering established standards. DWR advised that Mendocino County's local ordinance needed to be updated to meet the current FEMA guidelines.

Ordinance revisions reflected in the draft ordinance updates include the following modifications and/or additions;

- the definition of the "lowest floor" of a structure,
- standards for developing information regarding the base flood elevation (BFE) in non-specific study areas,
- clarification of language regarding construction standards within areas of flood hazard,
- provision of language regarding standards for recreational vehicles,
- provisions for garages and accessory structures,
- Provisions for new subdivision proposals (minor and major subdivisions)
- requirements for floodway impact assessment in areas where no floodway is established,
- Clarify language regarding standards for construction within areas of "coastal high hazard".
- Requirement for the finished floor of all structures in special flood hazard areas to be at least two (2) feet above the BFE.
- removal of coastal flood requirements from the Inland ordinance,
- addition of statements of "statutory authorization" and "findings of fact",
- expansion of submittal requirements for Floodplain Development Permit application, and
- Addition of several definitions to assist in administration.

Additionally, in response to DWR's audit, staff is recommending that the County add language regarding "substantial improvements" that may occur over time. Currently, improvements must be cumulatively assessed when determining what constitutes a "substantial improvement." That is, under the current regulation, an owner may construct an addition in one year, a re-roof the next, and a remodel the following year, which may cumulatively increase the value over 50% over that time. This places a greater burden on staff to determine compliance, and confuses the property owner, as they may believe this is a way to circumvent the bureaucracy. Staff proposes that only improvements that occur within any 5-year period be accredited to the determination of what constitutes a "substantial improvement."

ENVIRONMENTAL REVIEW: This project is Categorically Exempt from CEQA, per Section 15308, which exempts action of regulatory agencies for the protection of the environment. As such, no further environmental consideration is necessary and, further, the Fish and Game Code provisions regarding a wildlife impact fee are not applicable.

OTHER CONSIDERATIONS: This project will result in a greater standard of protection of the environment, as well as a clearer, more efficient process for both the administration by staff and implementation by the individual property owner. No significant environmental impacts are anticipated. The project will require the amendment and repeal of both Chapters 20.120 (Inland) and 20.420 (Coastal) floodplain ordinances and replacing the “Floodplain Ordinance” as Chapter 22.17 in the Mendocino County Code (M.C.C.). This is necessary to avoid the duplication of having two separate ordinances (Inland and Coastal) and allowing for only one ordinance for the entire County. Within the Coastal amendment process, the Coastal Commission had previously advised staff that this project will likely not be considered a “major” amendment (one of the limited numbers of amendments permitted to a Coastal Element within a one-year period), as the changes proposed do not impact density or intensity of land use.

GENERAL PLAN CONSISTENCY ANALYSIS: The Development Element of the General Plan contains the following policies related to flood plain protection:

- Policy DE-195: Development in the designated 100-year floodplain areas shall be consistent with all applicable federal regulations with regard to flooding.
- Policy DE-197: Collaborate with FEMA and other relevant agencies to update National Flood Insurance program Hazard Maps.
- Promote compatible uses of areas designated as flood plains (i.e., agricultural, conservation, open space or recreation).

The Coastal Element of the General Plan states:

Heavy winter rains cause flooding nearly every year in the larger coastal watersheds; more serious flooding could be expected from the 100-year event. Flooding is of greatest concern in developed areas, such as those near the Noyo and Albion Rivers. The flood hazard areas designated on the Land Use Maps fall within the 100-year flood zone boundaries as mapped by the Federal Emergency Management Administration (FEMA). Property owners who believe they are adversely affected by inaccuracies in flood hazard mapping may file a written appeal.

The Plan goes on to provide policies regarding means to protect the environment and development from hazardous conditions. Staff, therefore believes that the proposed project is consistent with applicable goals and policies of the General Plan.

PROJECT RECOMMENDATIONS: Staff has worked with both FEMA and DWR staff in preparing the updated ordinance under consideration. Staff believes this update will make the County’s provisions for flood protection and management consistent with all current FEMA requirements and in conjunction with the adoption of updated FIRM maps allow county land owners to continue to participate in the Federal Flood Insurance Program. As such staff recommends approval of Ordinance Amendment #OA 2017-0002

RECOMMENDED MOTION FOR THE PLANNING COMMISSION: The Planning Commission recommends that the Board of Supervisors find that the project is categorically exempt from CEQA and approve Ordinance Amendment #OA 2017-0002 which will modify both the inland and coastal zoning ordinances and repeal Division I and Division II of Chapter 20 of the Mendocino County Code respectively, and add Chapter 22.17 resulting in one Floodplain Ordinance for the entire County (applicable to inland and coastal) making the following findings:

Environmental Findings: No significant adverse environmental impacts will result from the proposed amendment. Further the Board of Supervisors finds that the project is Categorically Exempt from CEQA (Class 8).

General Plan Consistency Finding: The proposed amendment is consistent with the applicable goals and policies of the General Plan and Coastal Element.

DATE

IGNACIO GONZALEZ
INTERIM DIRECTOR

CHAPTER 22.17

FLOODPLAIN COMBINING DISTRICT

22.17.000

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

22.17.005 STATUTORY AUTHORIZATION: The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Supervisors of Mendocino County does hereby adopt the following floodplain management regulations.

22.17.010 FINDINGS OF FACT:

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

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

22.17.015 STATEMENT OF PURPOSE: It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintains a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

22.17.020 METHODS OF REDUCING FLOOD LOSSES: In order to accomplish its purposes, this ordinance includes methods and provisions to:

- A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Control filling, grading, dredging, and other development which may increase flood damage; and
- E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

**22.17.100
DEFINITIONS**

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. ***The definitions provided herein are specific to the administration and interpretation of this Chapter, and are not meant to conflict with other definitions found in the County Code.***

22.17.105: Definitions (A):

- A. "**Accessory use**" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
- B. "**Accessory structure**" 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 out buildings, etc. In no case shall such accessory structure dominate, in area, extent or purpose, the principal lawful structure or use. Accessory buildings shall not contain any sleeping quarters or kitchen facilities and are therefore not intended for human occupancy. See Chapter 20.164, Accessory Use Regulations (Division I, Mendocino County Zoning Code) Section 20.308.020(F) Accessory Buildings, Chapter 20.308, (Division II, Mendocino County Zoning Code).
- C. "**Alluvial fan**" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
- D. "**Apex**" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.
- E. "**Appeal**" means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.
- F. "**Area of shallow flooding**" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- G. "**Area of special flood hazard**" - See "Special flood hazard area."
- H. "**Area of special flood-related erosion hazard**" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Insurance Rate Map (FIRM).
- I. "**Area of special mudslide (i.e., mudflow) hazard**" is the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the Flood Insurance Rate Map (FIRM).

22.17.110 Definitions (B):

- A. "**Base flood**" means a flood which has a one percent chance of being equalled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.

- B. **"Basement"** means any area of the building having its floor subgrade - i.e., below ground level - on all sides.
- C. **"Breakaway walls"** are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:
1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood, and
 2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.
- D. **"Building"** - see **"Structure"**.

22.17.115 Definitions (C):

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

22.17.120 Definitions (D):

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

22.17.125 Definitions (E):

- A. **"Encroachment"** means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.
- B. **"Existing manufactured home park or subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- C. **"Expansion to an existing manufactured home park or subdivision"** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

22.17.130 Definitions (F):

- A. **"Flood, flooding, or flood water"** means:
1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

2. The condition resulting from flood-related erosion

- B. **"Flood Boundary and Floodway Map (FBFM)"** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.
- C. **"Flood Hazard Boundary Map"** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.
- D. **"Flood Insurance Rate Map (FIRM)"** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- E. **"Flood Insurance Study"** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- F. **"Flood-related erosion"** means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical level or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusually and unforeseeable event which results in flooding.
- G. **"Flood-related erosion area"** or **"Flood-related erosion prone area"** means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.
- H. **"Flood-related erosion area management"** means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.
- I. **"Floodplain or flood-prone area"** means any land area susceptible to being inundated by water from any source - see **"Flooding"**.
- J. **"Floodplain Administrator"** is the individual appointed to administer and enforce the floodplain management regulations. ***The Building Official shall be the Floodplain Administrator.***
- K. **"Floodplain management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- L. **"Floodplain management regulations"** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.
- M. **"Flood-proofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 for guidelines on dry and wet flood-proofing.)
- N. **"Floodway"** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as, "Regulatory Floodway".

- O. "**Floodway fringe**" is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.
- P. "**Fraud and victimization**" as related to Section 22.17.500 **Variations**, of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.
- Q. "**Functionally dependent use**" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

22.17.135 Definitions (G):

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

22.17.140 Definitions (H):

- A. "**Hardship**" as related to Section 22.17.500, **Variations**, of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The *County of Mendocino* requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- B. "**Highest adjacent grade**" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- C. "**Historic structure**" means any structure that is
1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

22.17.145 Definitions (L):

- A. "**Levee**" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
- B. "**Levee system**" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.
- C. "**Lowest floor**" means the lowest floor of the lowest enclosed area, including basement (see "**Basement**" definition).
 - 1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - a. The wet flood-proofing standard in section 22.17.405(1)(C)(3);
 - b. The anchoring standards in section 22.17.405(1)(A);
 - c. The construction materials and methods standards in section 22.17.405(1)(B); and
 - d. The standards for utilities in section 22.17.410.
 - 2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "**Basement**" definition). This prohibition includes below-grade garages and storage areas.

22.17.150 Definitions (M):

- A. "**Manufactured home**" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- B. "**Manufactured home park or subdivision**" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- C. "**Market Value**" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of external obsolescence. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences
- D. "**Mean sea level**" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
- E. "**Mudslide** " describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

F. "**Mudslide** (i.e., mudflow) **prone area**" means an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

22.17.155 Definitions (N):

- A. "**New construction**", for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.
- B. "**New manufactured home park or subdivision**" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

22.17.160 Definitions (O):

- A. "**Obstruction**" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
- B. "**One-hundred-year flood**" or "100-year flood" - see "**Base flood**."

22.17.165 Definitions (P):

- A. "**Primary frontal dune**" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.
- B. "**Public safety and nuisance**" as related to Section 22.17.500, **Variances**, of this ordinance means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

22.17.170 Definitions (R):

- A. "**Recreational vehicle**" means a vehicle which is:
1. Built on a single chassis;
 2. 400 square feet or less when measured at the largest horizontal projection;
 3. Designed to be self-propelled or permanently towable by a light-duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- B. "**Regulatory floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- C. "**Remedy a violation**" means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its

noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

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

22.17.175 Definitions (S):

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

- B. "**Sheet flow area**" - see "**Area of shallow flooding**".

- C. "**Special flood hazard area (SFHA)**" means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

- D. "**Start of construction**" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- E. "**Structure**" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

- F. "**Substantial damage**" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

- G. "**Substantial improvement**" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
3. **CUMULATIVE VALUE OF INCREMENTAL IMPROVEMENTS SHALL BE CONSIDERED OVER THE PREVIOUS FIVE YEAR PERIOD IN DETERMINING THE TOTAL VALUE OF IMPROVEMENTS PROPOSED.**

22.17.180 Definitions (V):

- A. "V zone" – see "Coastal high hazard area."
- B. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.
- C. "Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

22.17.185 Definitions (W):

- A. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- B. "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**22.17.200
GENERAL PROVISIONS**

22.17.205 LANDS TO WHICH THIS ORDINANCE APPLIES: This ordinance shall apply to all areas of special flood hazards within the unincorporated lands of Mendocino County.

22.17.210 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD: The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) for Mendocino County, California, Unincorporated Areas, dated June 12, 1992 and accompanying Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), dated June 1, 1983, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Board of Supervisors by the Floodplain Administrator. The study, FIRMs and FBFMs are on file at Department of Planning and Building Services at 860 N. Bush Street, Ukiah, California.

22.17.215 COMPLIANCE: No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the County of Mendocino – Department of Planning and Building Services from taking such lawful action as is necessary to prevent or remedy any violation.

22.17.220 ABROGATION AND GREATER RESTRICTIONS: This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

22.17.225 INTERPRETATION: In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

22.17.230 WARNING AND DISCLAIMER OF LIABILITY: The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the County of Mendocino, any officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

22.17.235 SEVERABILITY: This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

22.17.300 ADMINISTRATION

22.17.305 ESTABLISHMENT OF DEVELOPMENT PERMIT: A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 22.17.210. Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required.

A. Site plan, including but not limited to:

- 1. For all proposed structures, spot ground elevations at building corners and 20-foot or smaller intervals along the foundation footprint, or one foot contour elevations throughout the building site; and**
- 2. Proposed locations of water supply, sanitary sewer, and utilities; and**
- 3. If available, the base flood elevation from the Flood Insurance Study and/or Flood Insurance Rate Map; and**
- 4. If applicable, the location of the regulatory floodway; and**

B. Foundation design detail, including but not limited to:

- 1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and**
- 2. For a crawl-space foundation, location and total net area of foundation openings as required in Section 22.17.405(1)(C)(3) of this ordinance and FEMA Technical Bulletins 1-93 and 7-93; and**
- 3. For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to 95 percent using the Standard Proctor Test method); and**

C. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Section 22.17.405(1)(C)(2) of this ordinance and FEMA Technical Bulletin TB 3-93; and

D. All appropriate certifications listed in Section 22.17.315(D) of this ordinance; and

- E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

22.17.310 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR: The Building Official is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

22.17.315 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR: The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following.

- A. Permit Review. Review all development permits to determine that

1. Permit requirements of this ordinance have been satisfied,
2. All other required state and federal permits have been obtained,
3. The site is reasonably safe from flooding, and
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

B. Review, Use and Development of Other Base Flood Data:

- A. When base flood elevation data has not been provided in accordance with Section 22.17.210, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 22.17.400. Any such information shall be submitted to the {governing body} for adoption; **or**

B. If no base flood elevation data is available from a federal or state agency or other source, then a base flood elevation shall be obtained using one of two methods from the FEMA publication "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995 in order to administer Section 22.17.400:

1. Simplified method:

- a. **100 year or base flood discharge shall be obtained using the appropriate regression equation found in a U.S. Geological Survey publication, or the discharge-drainage area method; and**
- b. Base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or

2. Detailed method. The 100 year or base flood discharge and the base flood elevation shall be obtained using detailed methods identified in FEMA Publication 265, published in July 1995 and titled: "Managing Floodplain Development in Approximate Zone A Areas-A Guide for Obtaining and Developing Base (100 year) Flood Elevations".

- C. Notification of Other Agencies:** In alteration or relocation of a watercourse:

1. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
2. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency; and

3. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

D. Documentation of Floodplain Development: Obtain and maintain for public inspection and make available as needed the following:

1. Certification required by Section 22.17.405(1)(C)(1) and 22.17.420 (lowest floor elevations),
2. Certification required by 22.17.405(1)(C)(2) (elevation or flood-proofing of nonresidential structures),
3. Certification required by 22.17.405(1)(C)(3) (wet flood-proofing standard),
4. Certification of elevation required by Section 22.17.414(B) (subdivision standards),
5. Certification required by Section 22.17.430(A) (floodway encroachments),

E. Map Determinations: Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, **grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area.** The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 22.17.500.

F. Remedial Action: Take action to remedy violations of this ordinance as specified in Section 22.17.215.

22.17.320 APPEALS: The Board of Supervisors of Mendocino County shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

22.17.400 PROVISIONS FOR FLOOD HAZARD REDUCTION

22.17.405 STANDARDS OF CONSTRUCTION:

A. In all areas of special flood hazards the following standards are required:

1. Anchoring:

- a. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. All manufactured homes shall meet the anchoring standards of Section 22.17.420.

2. Construction materials and methods: All new construction and substantial improvement shall be constructed

- a. With **flood resistant** materials **as specified in FEMA Technical Bulletin TB 2-93,** and utility equipment resistant to flood damage;
- b. Using methods and practices that minimize flood damage;
- c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if

- d. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
3. Elevation and flood-proofing. (See Section 22.17.100 definitions for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement".)
- a. Residential construction, new or substantial improvement, shall have the lowest floor, including basement:
- i. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two (2) feet above the highest adjacent grade if no depth number is specified. In the **AO zones without velocity the lowest floor be elevated above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by at least two (2) feet, or elevated at least four feet above the highest adjacent grade if no depth number is specified.**
 - ii. In an A zone, elevated to or above the base flood elevation; **said base flood elevation shall be determined by one of the methods in Section 20.17.315 (D) of this ordinance. The lowest floor be elevated at least two (2) feet above the base flood elevation, as determined by the community.**
 - iii. In all other Zones, elevated to or above the base flood elevation. **The lowest floor be elevated at least two (2) feet above the base flood elevation.**
- b. Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.
- c. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 22.17.405(1)(C) or together with attendant utility and sanitary facilities:
- i. Be floodproofed below the elevation recommended under Section 22.17.405(1)(C) so that the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. Be certified by a registered professional engineer or architect that the standards of this section (22.17.405(1)(C)(2)) are satisfied. Such certification shall be provided to the Floodplain Administrator.
- d. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement **shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB 7-93, and** must exceed the following minimum criteria:
- i. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; or

ii. Be certified by a registered professional engineer or architect.

e. Manufactured homes shall also meet the standards in Section 22.17.420

22.17.410 STANDARDS FOR UTILITIES:

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
1. Infiltration of flood waters into the systems, and
 2. Discharge from the systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

22.17.415 STANDARDS FOR GARAGES AND ACCESSORY BUILDINGS

A. Attached garages:

1. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for automatic entry of flood waters (See Section 22.17.405 (C)(3)(a)). Areas of the garage below the BFE must be constructed with flood resistant materials (See Section 22.17.405 (B)).
2. A garage attached to a non-residential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.

B. Detached garages and accessory structures:

1. “Accessory building” (structure) used solely as a private garage, storage shed, farm out buildings, etc., as defined in Section 22.17.105, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - a) Use of the accessory structure must be limited to parking or limited storage;
 - b) The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - c) The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - d) Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - e) The accessory structure must comply with floodplain encroachment provisions in Section 22.17.435; and
 - f) The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 22.17.405

22.17.420 STANDARDS FOR SUBDIVISIONS:

- A. All new subdivision proposals (Minor and Major Subdivisions) as defined in Title 17, Chapter, Article II of the Mendocino County Code (Division of Land Regulations), including proposals for manufactured

home parks as defined in Title 20, Division I, Chapter 20.172 of the Mendocino County Zoning Ordinance shall adhere to the following:

1. All preliminary subdivision proposals shall identify the **Special** Flood Hazard Area (SFHA) and the elevation of the base flood. For subdivisions consisting of five (5) or more lots as defined in Section 17-18 of the Division of Land Regulations, the elevations of the lowest floors of all proposed structures and pads on the final plans shall be identified.
2. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
3. All subdivision proposals shall be consistent with the need to minimize flood damage.
4. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
5. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

22.17.425 STANDARDS FOR MANUFACTURED HOMES:

- A. All manufactured homes that are placed or substantially improved, within Zones A1-30, AH, AE, V1-V30, VE and V on the community's Flood Insurance Rate Map, on sites located:
 1. Outside of a manufactured home park or subdivision,
 2. In a new manufactured home park or subdivision,
 3. In an expansion to an existing manufactured home park or subdivision, or
 4. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation (***the State of California recommends at least two feet above the base flood elevation***) and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, AE, V1-V30, VE and V on the community's Flood Insurance Rate Map that are not subject to the provisions of paragraph 22.17.420(A) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 1. Lowest floor of the manufactured home is at or above the base flood elevation (***the State of California recommends at least two feet above the base flood elevation***), or
 2. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

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

22.17.430 STANDARDS FOR RECREATIONAL VEHICLES:

- A. All recreational vehicles placed on sites within Zones A1-30, AH, AE, V1-V30, VE and V on the community's Flood Insurance Rate Map will either:

1. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use – a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
2. Meet the permit requirements of Section 22.17.300 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 22.17.420(A).

22.17.435 FLOODWAYS: Located within areas of special flood hazard established in Section 22.17.210 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles, and erosion potential, the following provisions apply.

- A. Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in [the base] flood elevation during the occurrence of the base flood discharge.
- B. If Section 22.17.430(A) is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 22.17.400.

22.17.440 COASTAL HIGH HAZARD AREAS: Within coastal areas as established under Section 22.17.115, the following standards shall apply.

- A. All new construction and substantial improvements shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those required by applicable state or local building standards.
- B. All new construction and other development shall be located on the landward side of the reach of mean high tide.
- C. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 22.17.110 of this ordinance. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
- D. Fill shall not be used for structural support of buildings.
- E. Man-made alterations of sand dunes which would increase potential flood damage is prohibited.
- F. The Floodplain Administrator shall obtain and maintain the following records:
 1. certification by a registered engineer or architect that a proposed structure complies with Section 22.17.435(A), and
 2. the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

**22.17.500
VARIANCE PROCEDURE**

22.17.505 NATURE OF VARIANCES: The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the Board of Supervisors to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

22.17.505 APPEAL BOARD:

- A. In passing upon requests for variances, the Board of Supervisors shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the
1. Danger that materials may be swept onto other lands to the injury of others;
 2. Danger of life and property due to flooding or erosion damage;
 3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 4. Importance of the services provided by the proposed facility to the community;
 5. Necessity to the facility of a waterfront location, where applicable;
 6. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. Compatibility of the proposed use with existing and anticipated development;
 8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 9. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 10. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
- B. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that;
1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

2. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- C. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

22.17.510 CONDITIONS FOR VARIANCES.

- A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 22.17.300 and 22.17.400 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 22.17.100 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the Board of Supervisors need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the Board of Supervisors believes will both provide relief and preserve the integrity of the local ordinance.
- E. Variances shall only be issued upon a;
1. Showing of good and sufficient cause;
 2. Determination that failure to grant the variance would result in exceptional "hardship" (as defined in Section 22.17.100 of this ordinance) to the applicant; and
 3. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 22.17.100 - see "**Public safety or nuisance**"), cause fraud or victimization (as defined in Section 22.17.100) of the public, or conflict with existing local laws or ordinances.
- F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of sections 22.17.510(A) through 22.17.510(E) are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.
- G. Upon consideration of the factors of Section 22.17.505(A) and the purposes of this ordinance, the Board of Supervisors may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.