

## **ORDINANCE NO. 563**

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUSA AMENDING APPENDIX A – ZONING BY REPEALING AND REPLACING ARTICLE 39 - FLOODPLAIN MANAGEMENT OF THE COLUSA MUNICIPAL CODE

**WHEREAS**, FEMA has completed a Flood Insurance Study (FIS), of the County of Colusa region, and has updated and adjusted the information on the Flood Insurance Rate Maps (FIRM),

**WHEREAS**, With the adoption of the new Colusa County Flood Rate Insurance Maps (FIRM), FEMA Region IX Regional Service Center conducted an audit of the cities floodplain development ordinance.

**WHEREAS**, the City is updated Article 39 of Appendix A – Zoning Code, relative to floodplain management.

**WHEREAS**, the City of Colusa City Council has considered public comment at a duly noticed public hearing.

The City Council of the City of Colusa, State of California does hereby ordain as follows:

#### **Article 39. Floodplain Management.**

##### **Sec. 39.01. Statutory authorization, findings of fact, purpose and method.**

- (a) **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 City of Colusa does hereby adopt the following floodplain management regulations.
- (b) **Findings of Fact.**
  - 1. The flood hazard areas of the City of Colusa 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.
  - 2. 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.
- (c) **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:
  - 1. Protect human life and health.

2. Minimize expenditure of public money for costly flood control projects.
  3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  4. Minimize prolonged business interruptions.
  5. 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.
  6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage.
  7. Ensure that potential buyers are notified that property is in an area of special flood hazard.
  8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (d) Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions to:
1. 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.
  2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
  4. Control filling, grading, dredging, and other development which may increase flood damage.
  5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

### **Sec. 39.02. Definitions.**

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

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

"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.

"Area of special flood hazard"- see "Special flood hazard area."

"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.

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

"Building" - see "Structure"

"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.

"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.

"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.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood, 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.
2. The condition resulting from flood-related erosion - see "Flood-related erosion".

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source - see "Flooding".

"Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"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.

"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.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to non-residential structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway".

"Floodway fringe" is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

"Fraud and victimization" means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city council 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.

"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.

"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.

"Hardship" means the exceptional hardship that would result from a failure to grant the requested variance. The city council 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.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 the Interior;
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.

"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.

"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.

"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 floodproofing standard in Section 39.05(a)(3)(c).
  - b. The anchoring standards in Section 39.05(a)(1).
  - c. The construction materials and methods standards in Section 39.05(a)(2).
  - d. The standards for utilities in Section 39.05(b).
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.

"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".

"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.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NGVD) of 1988 nor other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction", for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

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

"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.

"One-hundred-year flood" or "100-year flood" - see "Base flood."

"Public safety and nuisance" 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.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis.
2. Four hundred 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.
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"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.

"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 impact 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.

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

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

"Special flood hazard area (SFHA)" means an area having special flood, and shown on a FIRM as Zone A, AO, AI-A30, AE, A99 or AH.

"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 manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

1. Any project for improvement of a structure to correct existing violations of 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".

"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.

"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.

"Water surface elevation" means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"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.

**Sec. 39.03. General provisions.**

- (a) Lands to which this ordinance applies. This shall apply to all areas of special flood hazards within the jurisdiction of the City of Colusa.
- (b) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified by Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated May 15, 2003 and accompanying Flood Insurance Rate Maps (FIRMs), dated May 15, 2003, and all subsequent amendments and/or revisions, are hereby 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 City of Colusa by the Floodplain Administrator. The study and FIRMs are on file at 425 Webster Street, City of Colusa, City Hall, Executive Secretary's Office, Colusa, California 95932.
- (c) 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 City of Colusa from taking such lawful action as is necessary to prevent or remedy any violation.
- (d) 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.
- (e) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:
  - 1. Considered as minimum requirements.
  - 2. Liberally construed in favor of the governing body.
  - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
- (f) Warning and disclaimer of liability. The degree of flood protection required by this 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 City of Colusa, 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.
- (g) 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.

#### **Sec. 39.04. Administration.**

- (a) 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 39.03(b). 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:
  1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures - in Zone AO, elevation of highest adjacent grade and proposed elevation of lowest floor of all structures; or
  2. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, if required in Section 39.05(a)(3)(b); and
  3. All appropriate certifications listed in Section 39.04(c)(4) of this ordinance; and
  4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (b) Designation of floodplain administrator. The city manager or his or her designee shall serve as city's floodplain administrator and shall administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.
- (c) Duties and responsibilities of the floodplain administrator. The duties and responsibilities of the floodplain administrator shall include, but not be limited to the following:
  1. Permit review. Review all development permits to determine that:
    - a. Permit requirements of this ordinance have been satisfied.
    - b. All other required state and federal permits have been obtained.
    - c. The site is reasonably safe from flooding.
    - d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but 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.
  2. Review and use of any other base flood data. When base flood elevation data has not been provided in accordance with Section 39.03(b), 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 39.05. Any such information shall be submitted to the city council for adoption.

3. Notification of other agencies. In alteration or relocation of a watercourse:
  - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation.
  - b. Submit evidence of such notification to the Federal Insurance Administration and Federal Emergency Management agency.
  - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
4. Documentation of floodplain development. Obtain and maintain for public inspection and make available as needed the following:
  - a. Certification required by Section 39.05(a)(3)(a) (lowest floor elevations).
  - b. Certification required by Section 39.05(a)(3)(b) (elevation or floodproofing of nonresidential structures).
  - c. Certification required by Section 39.05(a)(3)(c) (engineered foundation openings).
  - d. Certification of elevation required by Section 39.05(c) (subdivision standards).
  - e. Certification required by Section 39.05(f) (floodway encroachments).
5. Substantial improvement and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the floodplain administrator, in coordination with the building official, shall:
  - a. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
  - b. Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, when applicable, to the market value of the building or structure.
  - c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage.
  - d. Notify the applicant when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant when it is determined that work does not constitute substantial improvement or repair of substantial damage.
6. Map determinations. Make interpretations where needed, as to the 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 condition, 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 39.06.

7. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses indicate changes in base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available. The analyses shall be prepared by a qualified registered professional engineer in a format required by FEMA.
8. Remedial action. Take action to remedy violations of this ordinance as specified in Section 39.03(c) or other applicable law.

**Sec. 39.05. Provisions for flood hazard reduction.**

- (a) Standards of construction. 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 39.05(d).
  2. Construction materials and methods. All new construction and substantial improvement shall be constructed:
    - a. With materials 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 floodproofing. (See Section 39.02 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 exceeding the depth number specified in feet on the FIRM by at least one foot, or elevated at least three feet above the highest adjacent grade if no depth number is specified.

- ii. In an A zone, elevated at least one foot above the base flood elevation, as determined by the City of Colusa.
- iii. In all other zones, elevated at least one foot above the base flood elevation.

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.

- b. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 39.05(a)(3)(a) above, or together with attendant utility and sanitary facilities:
    - i. Be floodproofed below the elevation specified in Section 39.05(a)(3)(a) 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.
    - iii. Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certification shall be provided to the floodplain administrator.
  - c. 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 must exceed the following minimum criteria:
    - i. Be certified by a registered professional engineer or architect to comply with the guidelines for engineered openings in FEMA Technical Bulletin 1, or
    - ii. 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.
  - d. Manufactured homes shall also meet the standards in Section 39.05(d).
- (b) Standards for utilities.
- 1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
    - a. Infiltration of flood waters into the systems.
    - b. Discharge from the systems into flood waters.

2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

(c) Standards for subdivisions.

1. All preliminary subdivision proposals shall identify special flood hazard areas and the elevation of the base flood.
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.

(d) Standards for manufactured homes.

All manufactured homes that are placed or substantially improved, within Zones AI-30, AH, and AE on the community's Flood Insurance Rate Map, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation collapse and lateral movement.

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.

(e) Standards for recreational vehicles.

1. All recreational vehicles placed on sites within Zones AI-30, AH, and AE on the community's Flood Insurance Rate Map will either:
  - a. Be on the site for fewer than one hundred eighty consecutive days, and be fully licensed and ready for highway use—a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
  - b. Meet the permit requirements of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 39.05(d).

(f) Floodways. Located within areas of special flood hazard established in Section 39.03(b) 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.

1. Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer or

architect is provided demonstrating that encroachments shall not result in any increase in [the base] flood elevation during the occurrence of the base flood discharge.

2. If Section 39.05(f)(1) is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of this ordinance.

### **Sec. 39.06. Variance and appeals.**

- (a) 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 City of Colusa 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.

- (b) Variance and appeals procedures.
  1. The planning commission of the City of Colusa shall hear and decide requests for variances from the requirements of this chapter.
  2. The planning commission shall hear and decide appeals on any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
  3. The planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the
    - a. Danger that materials may be swept onto other lands to the injury of others.
    - b. Danger of life and property due to flooding or erosion damage.
    - c. 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.
    - d. Importance of the services provided by the proposed facility to the community.
    - e. Necessity to the facility of a waterfront location, where applicable.
    - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

- g. Compatibility of the proposed use with existing and anticipated development.
  - h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
  - i. Safety of access to the property in time of flood for ordinary and emergency vehicles.
  - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
  - k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
4. Any applicant to whom a variance is granted shall be given written notice by the floodplain administrator that:
    - a. 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 twenty-five dollars for one hundred dollars of insurance coverage.
    - b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain administrator in the office of the Colusa County recorder.
  6. The decision (s) of the planning commission shall be final, unless said decision (s) is appealed to the city council within thirty days of said commission decision (s).
  7. 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.
- (c) Conditions for variances.
1. 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 39.04 and 39.055 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.
  2. Variances may be issued for the repair or rehabilitation of "historic structures" as defined in section 39.02 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.
  3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
  4. 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 city 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 City of Colusa believes will both provide relief and preserve the integrity of the local ordinance.

5. Variances shall only be issued upon a:
  - a. Showing of good and sufficient cause.
  - b. Determination that failure to grant the variance would result in exceptional “hardship” (as defined in section 39.02 of this ordinance) to the applicant.
  - c. 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 39.02—see “Public safety or nuisance”), cause fraud or victimization (as defined in section 39.02 ) of the public, or conflict with existing local laws or ordinances.
6. 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 this section 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.
7. Upon consideration of the criteria of section 39.06(b)(3) and the purposes of this ordinance, the City of Colusa planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

**SECTION 3. ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the Municipal Code will have a significant effect on the environment.

**SSECTION 4. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SSECTION 5. EXECUTION.**

The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 45 days after its adoption.



Passed and adopted on this \_\_\_\_ day of December 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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GREG PONCIANO, MAYOR

ATTEST:

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Shelly Kittle, City Clerk

