

**SECTION 29.4 FLOOD HAZARD (FH) ZONING DISTRICT OR  
FLOOD HAZARD OVERLAY ZONE  
(Ord. 315-698, 7/5/2000)**

**1.0 INTRODUCTION**

**1.1 STATUTORY AUTHORIZATION.** The Legislature of the State of California has in Government Code Section 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 Trinity County does ordain as follows:

**1.2 FINDINGS OF FACT**

- A. The flood hazard areas of Trinity County are subject to periodic inundation, which can result 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 the cumulative effect of obstructions in areas of special flood hazards, which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from damage also contribute to the flood loss.

**1.3 STATEMENT OF PURPOSE.** It is the purpose of this ordinance to promote the public health, safety, and general welfare, to protect fish and wildlife resources, 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, electricity, telephone, sewer lines, streets and bridges located in areas of special flood hazards;

- F. Help maintain a stable tax base by providing for sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- I. Minimize impacts to fish and wildlife resources that are associated with flood plains where such resources do not conflict with public health and safety.

**1.4 METHODS OF REDUCING FLOOD LOSSES.** In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help to accommodate flood waters and maintain fish and wildlife resources;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- E. Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards in other areas.

**2.0 FLOOD HAZARD (FH) ZONING DISTRICT**

**2.1. APPLICABILITY OF FLOOD HAZARD (FH) ZONING DISTRICT.** All of the following areas shall be zoned Flood Hazard (FH) zoning district:

- A. Areas designated as a Regulatory Floodway or Zone AE on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM);

- B. Areas designated on the FIRM as Zone A along the Trinity River, Coffee Creek or along streams in communities with an adopted community plan;
- C. Areas identified as 100 year flood plain on parcel maps and final maps filed for record in accordance with the Trinity County Subdivision Ordinance;
- D. Areas identified as 100 year flood plain in a use permit condition or other county entitlement; and
- E. Areas identified as 100 year flood plain by a flood study approved by the Board of Supervisors.

**2.2. USES PERMITTED:**

- A. Agricultural uses not involving the construction of structures or other uses which would limit the flow of flood waters.
- B. Placement and repair of three strand smooth-wire or barbed-wire fencing.
- C. Maintenance and repair of existing bridges, culverts and roadways.
- D. Recreational mining or dredging, not subject to the Surface Mining and Reclamation Act (SMARA).

**2.3 USES PERMITTED SUBJECT TO FIRST SECURING A FLOODPLAIN DEVELOPMENT PERMIT (per part 6.1 of this Section)**

The following uses may be permitted subject to first securing a Director's Issued Floodplain Development Permit, and, where applicable, complying with Regulatory Floodway provisions of Section 2.5, below.

- A. Construction or replacement of bridges, culverts, roadways, bank slope protection devices and levees, and fisheries or wildlife habitat improvement projects shall be allowed, provided a certification by a registered professional engineer is provided demonstrating that the net effect of the project, in conjunction with all other projects developed on the affected stream reach since the effective date of the FIRM for said stream, will not cumulatively increase flood waters of the stream by more than one foot in the project area. Such certification shall be provided to the Floodplain Administrator.
- B. Substantial improvements to existing structures, subject to compliance with development standards in the Flood Hazard Overlay (FHO) zoning district (Section 3.3).

- C. Development of structures within the Flood Hazard (FH) zoning district may be permitted upon first securing Floodplain Development Permit, provided that there are no building sites lying outside of the FH zoning district. If approved, development shall comply with development standards in Section 3.3.

**2.4 USES PERMITTED SUBJECT TO FIRST SECURING A USE PERMIT:**

The following uses may be permitted subject to first securing a Planning Commission Issued Use Permit, and, where applicable, complying with Regulatory Floodway provisions of Section 2.5, below.

- A. Mining activities, provided all of the requirements of Surface Mining and Reclamation Act (SMARA) are met. Structures, equipment and material stockpiles shall not be in the floodplain between November 1 and April 30 of any year.
- B. As part of a resort development or special occupancy park, seasonal uses, such as RV or tent camping may be permitted, provided they meet the standards for recreational vehicles in Section 3.3.G. A Floodplain Development Permit shall also be required, and shall be conditioned to require removal of all facilities (including, but not limited to, picnic tables, trash containers, portable toilets) from areas subject to flooding, during the period between November 1 and April 30. Permanently placed facilities, such as propane tanks or sewage disposal systems shall not be permitted.

**2.5 USES PERMITTED IN REGULATORY FLOODWAYS**

A "Regulatory Floodway", lying within an area of special flood hazard as shown on a FIRM map, is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential. The following provisions apply to Regulatory Floodways:

- A. Encroachments, including fill, new construction, substantial improvement, and other new development are prohibited within floodways 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 2.5.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 3.3.

- C. If Section 2.5.A cannot be satisfied, and the Floodplain Administrator determines that no practicable alternative exists to revising the boundaries of the previously adopted floodway, then the Floodplain Administrator may request an amendment to the floodway map, in compliance with 44 CFR Section 65.7, "Floodway Revisions".

**2.6 DEVELOPMENT STANDARDS FOR LANDS LYING WITHIN THE FLOOD HAZARD ZONING DISTRICT.**

Development standards for the allowable uses listed above for lands lying within the Flood Hazard (FH) zoning district are the same as development standards for lands lying within the Flood Hazard Overlay (FHO) zoning district (Section 3.3).

**3.0 FLOOD HAZARD OVERLAY (FHO) ZONING DISTRICT.**

**3.1 APPLICABILITY OF THE FLOOD HAZARD OVERLAY (FHO) ZONING DISTRICT.** The following areas shall be zoned Flood Hazard Overlay (FHO) zoning district:

All of those lands as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate (FIRM) maps as Zone AO or AH (areas of shallow flooding), or lands designated as Zone A which are not included in a Flood Hazard (FH) zoning district.

**3.2 PERMITTED USES:**

All uses permitted in the underlying zone shall be permitted in the Flood Hazard Overlay (FHO) zoning district provided, however, that a Floodplain Development Permit shall be obtained prior to commencement of construction and issuance of any other county entitlement.

**3.3 DEVELOPMENT STANDARDS FOR LANDS LYING WITHIN THE FLOOD HAZARD OVERLAY (FHO) ZONING DISTRICT .** The following standards shall be applied to any development proposed within a Flood Hazard Overlay zoning district or within a special flood hazard area within which development is permitted by this ordinance.

**A. ANCHORING**

- 1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and certified per Section 3.3, A.3.

2. All manufactured homes shall meet the anchoring standards of Section 3.3.F.2.
3. All standards in Section 3.3.A.1 and 3.3.A.2 shall be certified by a registered professional architect or engineer.

**B. CONSTRUCTION MATERIALS AND METHODS**

1. All new construction and substantial improvements shall be constructed with flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All new construction and substantial improvements within zones AH or AO shall be constructed so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

**C. ELEVATION AND FLOODPROOFING**

1. New construction and substantial improvement of any structure shall have the lowest floor, including basement,
  - a. In an AO zone elevated above the highest adjacent grade to a height equal to or exceeding one foot above the depth number specified in feet on the FIRM, or elevated at least three feet above the highest adjacent grade if no depth number is specified; and
  - b. In all other zones (AE, AH, and A 1-30), elevated not less than one foot above the base flood elevation. Nonresidential structures may meet the standards in Section 3.3.C.2.

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

2. Nonresidential construction shall be elevated in conformance with Section 3.3.C.1, or together with attendant utility and sanitary facilities:
    - a. Be flood proofed so that below the elevation recommended under section 3.3.C.1, the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - c. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator.
  3. For all new residential construction and substantial improvements fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall follow the guidelines in FEMA Technical Bulletin TB 1-93 and TB 7-93 and must exceed the following minimum criteria:
    - a. 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 floodwaters; and
    - b. be certified by a registered professional engineer or architect.
  4. Manufactured homes shall also meet the standards in Section 3.3.F.
- D. FILL AND OTHER FLOODPLAIN ENCROACHMENTS.** All fill and other encroachments shall be certified by a registered professional engineer or architect to not increase the Base Flood Elevation more than 12 inches. Such certification shall be provided to the Floodplain Administrator.
- E. STANDARDS FOR UTILITIES**
1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
3. All disposal fields for on-site waste disposal systems shall be located outside of the 100-year flood zone.

**F. STANDARDS FOR MANUFACTURED HOMES.** All new and replacement manufactured homes, substantial improvements and additions to manufactured homes shall:

1. Be elevated on a permanent foundation system such that the lowest floor is not less than one foot above the base flood elevation; and
2. Be securely anchored to a permanent foundation system designed to resist flotation, collapse or lateral movement, and installed in accordance to FEMA publication 85 entitled "Manufactured Home Installation in Flood Hazard Areas".
3. Upon 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 County building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

**G. STANDARDS FOR RECREATIONAL VEHICLES.** All recreational vehicles placed on sites within Zones A1-30, AH, AE and A on the County's Flood Insurance Rate Map will either:

1. Be on 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 6 of this Ordinance and the elevation and anchoring requirements for manufactured homes in Section 3.3.F.

#### **4.0 STANDARDS FOR SUBDIVISIONS**

- 4.1** All preliminary and tentative subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.

- 4.2 All final subdivision plans shall provide the elevation of proposed structure(s) and pads. If the site is filled above the base flood elevation, the lowest floor and final pad elevation shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
- 4.3 All subdivision proposals shall be consistent with the need to minimize flood damage.
- 4.4 All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.
- 4.5 All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.
- 4.6 The creation of new parcels, which have no building sites outside of the 100-year floodplain is prohibited, except for the creation of open space parcels.

## **5.0 GENERAL PROVISIONS**

- 5.1 **LANDS TO WHICH THIS ORDINANCE APPLIES.** This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Trinity County.
- 5.2 **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS.**  
The areas of special flood hazard are identified by the Federal Emergency Management Agency or the Federal Insurance Administration in a scientific and engineering report entitled "Flood Insurance Study for Trinity County", dated August 16, 1988, as amended on February 16, 1990, and on April 17, 1996 and any subsequent revisions, with accompanying Flood Insurance Rate Maps, the U.S. Army Corps of Engineers, San Francisco District, report entitled "Floodplain Management Services Special Study, Weaverville Streams, Trinity County, California", dated August 1989, with accompanying flood maps and Trinity River aerial photographs dated 1/17/74 and 1/21/74 (Flight #1, TRP 5 & 6 and Flight #2, TRP 7 & 8, respectively) which are hereby adopted by reference and declared to be part of this ordinance. These flood insurance studies are on file at the Trinity County Planning Division, P.O. Box 2819, 190 Glen Road, Suite B, Weaverville, CA 96093-2819. These flood insurance studies are the minimum area of applicability of this ordinance and may be supplemented by other studies, as approved by the Board of Supervisors upon a recommendation from the Floodplain Administrator.
- 5.3 **COMPLIANCE.** All departments, officials, and public employees of the County of Trinity, which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this ordinance and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this Ordinance, and any such permits or licenses, if issued in conflict with the provisions of this Ordinance, shall be null and void.

A. It shall be the duty of the Building Inspector to enforce the provisions of this ordinance pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure. It shall be the duty of all officers of the County of Trinity to enforce this ordinance, and all the provisions of the same.

Comment [AW1]:

B. Any person, firm or corporation who violates any of the regulatory provisions of this ordinance is guilty of an offense punishable as a misdemeanor or infraction. Any person convicted of a misdemeanor shall be punished by a fine of not more than five hundred (500) dollars, or by imprisonment not to exceed six (6) months in the county jail, or by both such fine and imprisonment. Any person convicted of an infraction shall be punished by a fine of not more than two hundred and fifty (250) dollars.

Each person is guilty of a separate offense for each and every day during any portion of which any violation is committed, continued, or permitted, and shall be punished accordingly.

C. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained, contrary to the provision of this ordinance, and/or any use of any land, building or premises, established, conducted, operated, or maintained contrary to the provisions of this ordinance, shall be declared to be unlawful and a public nuisance, and the District Attorney of said County shall, upon order of the Board of Supervisors, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts, as may have jurisdiction, to grant such relief as will enjoin any person, firm, or corporation, from setting up, erecting, building, maintaining, or using any such building or structure or using any property contrary to the provisions of this Ordinance.

D. The remedies provided for herein shall be cumulative and not exclusive.

**5.4 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.

**5.5 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 or repeal any other powers granted under state statutes.

**5.6 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 damage. This Ordinance shall not create liability on the part of Trinity County, any officer or employee thereof, the State of California, the Federal Insurance Administration, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision.

**5.7 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 sections so declared to be unconstitutional or invalid.

## **6.0 ADMINISTRATION**

**6.1 REQUIREMENT OF A FLOODPLAIN DEVELOPMENT PERMIT:** A Floodplain Development Permit shall be obtained before construction or development begins within areas zoned FH or FHO, as established in Sections 2.0 and 3.0 . Application for a floodplain Development Permit shall be made on forms furnished by the Floodplain Administrator that may require, 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; the location of the foregoing, and other information specified by the Floodplain Administrator. Specifically, the following information is required:

- A. 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;
  - 2. proposed locations of water supply, sanitary sewer, and utilities;

3. 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.
- 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;
  2. for a crawl-space foundation, location and total net area of foundation openings as required in Section 3.3.C.3 of this ordinance and FEMA Technical Bulletins TB 1-93 and TB 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).
- C. The proposed elevation in relation to mean sea level to which any nonresidential structure will be flood proofed, as required in Section 3.3.C.2 of this ordinance and FEMA Technical Bulletin TB 3-93.
- D. All appropriate certifications listed in Section 6.3.D of this ordinance.
- E. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**6.2 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.** The Planning Director is hereby appointed to administer and implement this ordinance by granting or denying Floodplain Development Permits in accordance with its provisions.

A Planning Commissioner, County Supervisor or the Floodplain Administrator, may at his or her discretion, refer the permit to the Planning Commission for a public hearing and approval.

**6.3 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. Review all development permits to determine that:
1. The 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.
4. The proposed development does not adversely affect the carrying capacity of the area where base flood elevations have been determined but floodways have not been delineated. For purposes of this ordinance, "adversely affects" means that the cumulative affect 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.
5. The proposed development does not limit the ability to flush sediment through the Trinity River by the use of controlled water releases from Lewiston Dam.
6. The proposed development does not adversely impact fish or wildlife resources associated with riparian vegetation within an area of special flood hazards.

B. Review and Use of Other Base Flood Data:

1. When base flood elevation data has not been provided in accordance with Section 5.2, 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 3.0. Any such information shall be submitted to the Board of Supervisors for adoption; or
2. 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 Sections 2.0, 3.0 and 6.0:
  - a. Simplified method
    - i. 100-year flood discharge shall be obtained using the appropriate regression equation found in the U.S. Geological Survey publication "Nationwide summary of U.S. Geological Survey regional regression equations for estimating magnitude

and frequency of floods for ungaged sites, 1993; U.S. Geological Survey Water Resources Investigations Report 94-4002”, or the discharge-drainage area method; and

- ii. base flood elevation shall be obtained using the Quick-2 computer program developed by FEMA; or

b. Detailed method

- i. 100-year or base flood discharge shall be obtained using the U.S. Army Corps of Engineers’ HEC-HMS computer program; and
- ii. base flood elevation shall be obtained using the U.S. Army Corps of Engineers’ HEC-RAS computer program.

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

- 1. Notify adjacent communities, the California Department of Fish and Game, the Army Corps of Engineers, the North Coast Regional Water Quality Control Board and the California Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration, and Federal Emergency Management Agency.
- 2. Require that the flood carrying capacity of the altered or relocated portion of said watercourse is not adversely affected.

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

- 1. The certification required in Section , 3.3.C.1, 3.3.F.3 (flood elevations).
- 2. The certification required in Section 3.3.C.2.c (elevation, or flood proofing of nonresidential structures).
- 3. The certification required in Section 3.3.C.3 (wetflood proofing standard).
- 4. The certification required in Section 3.3.D (encroachments)
- 5. The certification required in Section 4.2, (subdivision standards).
- 6. The certification required in Section 2.5 A. (floodway encroachments).

7. The certification required in Section 2.3 A, (construction or replacement of bridges, culverts, roadways, bank slope protection devices and levees, and fisheries or wildlife habitat improvement projects)
- E. Make interpretations, where needed, as to the location of the boundaries of the area of special flood hazards. 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 7.0.
- F. Take action to remedy violations of this ordinance as specified in Section 5.3 herein.

**6.4 ENVIRONMENTAL REVIEW.** Floodplain Development Permits issued pursuant to the provision of this Ordinance shall comply with the provisions of the California Environmental Quality Act as set forth in Chapter 18 of the Trinity County Code.

## **7.0 VARIANCE PROCEDURES**

### **7.1 APPEAL BOARD**

- A. The Planning Commission of Trinity County shall hear and decide appeals and requests for variances from the requirements of this ordinance. Any person dissatisfied with a determination of the Planning Commission may appeal the matter to the Board of Supervisors. All appeals are subject to the administrative procedures set forth in the Trinity County Zoning Ordinance.
- B. The Planning Commission 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.
- C. In passing upon such applications, the Planning Commission and/or Board of Supervisors shall consider all technical evaluations, all relevant factors and standards specified in other sections of this ordinance, and:
  1. The danger that materials may be swept onto other lands to the injury of others.
  2. The danger of life and property due to flooding or erosion damage.

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and future owners of that property.
  4. The importance of the services provided by the proposed facility to the community.
  5. The necessity to the facility of a waterfront location where applicable.
  6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  7. The compatibility of the proposed use with existing and anticipated development.
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
  9. The safety of access to the property in time of flood for ordinary and emergency vehicles.
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.
  11. The cost 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 systems, and streets and bridges.
  12. The impacts on fish and wildlife resources associated with floodplains.
- D. Generally, variances may be issued for new construction and for substantial improvement 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 items 7.1.C.1, through 7.1.C.12, have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- E. Upon consideration of the factors of Section 7.1.C and the purposes of this ordinance, the Planning Commission and/or Board of Supervisors may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

- F. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

## **7.2 CONDITIONS FOR VARIANCE**

- A. Variances may be issued for the repair, rehabilitation or restoration of structures listed in the National Register of Historic Places or State Inventory of Historic Places, 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.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances shall only be issued upon:
  - 1. A showing of good and sufficient cause.
  - 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create nuisances, cause fraud on, or victimization of the public, or conflict with existing local laws or ordinances.
- E. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the provision of Section 7.2 .A through 7.2.D are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

A copy of the notice shall be recorded by the Floodplain Administrator in the office of the Trinity County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

## **8.0 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. For purposes of Section 29.4 of Ordinance No. 315 only, the following definitions apply:

"ACCESSORY USE" means use that is incidental and subordinate to the principal use of the parcel of land on which it is located.

"APPEAL " means a request for review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

"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 definition for "SPECIAL FLOOD HAZARD AREA".

"BASE FLOOD" means the flooding having a one percent chance of being equaled or exceeded in any given year (also called the "100 year flood"). Base flood is the term used throughout this document.

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

"BUILDING" means any structure built entirely of frame or a more lasting type of construction, having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of any person (s), animal or chattel, but not including any tent or trailer; see definition for "STRUCTURE".

"BUILDING SITE" means all or a portion of a parcel of land which is less than 30% slope, with adequate area to be suitable as a location for structures and the necessary infrastructure to support the proposed development allowed by the zoning district and other applicable standards and requirements wherein such parcel is located, including adequate area for sewage disposal, according to existing Health Department standards and guidelines.

"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.

"FLOOD, FLOODING - OR FLOOD WATER" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; the unusual and rapid accumulation or runoff of surface waters from any source;

"FLOOD INSURANCE RATE MAP (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the area of special flood hazards and risk premium zones applicable to the County.

"FLOOD INSURANCE STUDY" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate 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 definition of "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 ordinance and erosion control ordinance) and other applications 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 the preventing and reducing flood loss and damage.

"FLOOD PROOFING" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents (refer to FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93 for guidelines on dry and wet flood proofing).

"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 ENCROACHMENT LINES" means the lines marking the limits of floodways on Federal, state and local floodplain maps.

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

"FRAUD AND VICTIMIZATION" as related to Section 7, (Variance Procedures) of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the County 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" means 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" as related to Section 6, (Variance Procedures) of this ordinance, means the exceptional hardship that would result from a failure to grant a requested variance. The County requires that the variance is 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 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 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 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 accordance with sound engineering practices.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resident enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"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 connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles, but excludes recreational vehicles on site for less than 180 days per year, and licensed and ready for highway use.

"MANUFACTURED HOME PARK AND SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

"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 that 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.

"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 community's Flood Insurance Rate Map are referenced.

"NEW CONSTRUCTION" means, for floodplain management purposes, structures for which the "start of construction" commenced on or after August 16, 1988, and includes any subsequent improvements to such structures.

"ONE-HUNDRED-YEAR FLOOD" or "100-YEAR FLOOD" - see "BASE FLOOD".

"OPEN SPACE PARCEL" means a parcel of land created pursuant to the requirements of the California Subdivision Map Act and the Trinity County Subdivision Ordinance which is created for the principal purpose(s) of open space for public or private use, or fish, wildlife, wetland or floodplain protection and/or restoration. Construction of permanent buildings shall not be allowable on Open Space Parcels, but agricultural uses without permanent buildings shall be allowable.

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

"PUBLIC SAFETY AND NUISANCE" as related to Section 6, (Variance Procedure) 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.

"READY FOR HIGHWAY USE" means that a recreational vehicle 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.

"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 towed 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.

"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 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 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.

"SPECIAL FLOOD HAZARD AREA (SFHA)" means an area having special flood or flood-related erosion hazards, as shown on a Flood Insurance Rate Map (FIRM) as Zone A, Zone AE, Zone O, Zone A1-A30, Zone A99, or Zone AH, or as shown by studies approved by the Board of Supervisors upon a recommendation from the Floodplain Administrator.

"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 of the permit date.

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

"STRUCTURE" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"SUBSTANTIAL DAMAGE" means damage of any origin sustained by a structure if 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.

"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 that 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 County 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 structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structures 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 the County's floodplain management regulations. 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 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.

"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.