

ORDINANCE NO. 1484

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ARCATA LAND USE CODE PERTAINING TO CHAPTER 9.60—THE FLOOD HAZARD MITIGATION STANDARDS

The City Council of the City of Arcata does ordain as follows:

Section 1: Findings.

- A. Through the adoption of Ordinance No. 1479 on November 2, 2016, the City Council of the City of Arcata amended the Municipal Code by inserting the updated Flood Hazard Mitigation Standards, and all definitions and references thereto, into Title VIII, Chapter 4 (Building Regulations) of the Municipal Code.
- B. On December 20, 2016, the Planning Commission of the City of Arcata, at a noticed public hearing, adopted Resolution PC 16-06, recommending that the Flood Hazard Mitigation Standards, and all definitions and references thereto, be repealed from the Land Use Code.

Section 2: Title IX (Land Use Code), Chapter 9.60 (Flood Hazard Mitigation Standards) is hereby repealed in its entirety.

Section 3: Title IX, Article 10 (Glossary), Chapter 9.100 (Definitions), Section 9.100.020 (Definitions of Specialized Terms and Phrases) is hereby amended as shown in Exhibit 1, attached hereto and incorporated herein, where bold underline indicates new text, strikethrough indicates deleted text, and “* * *” indicates omitted text that is unchanged.

Section 4: Title IX, Article 2 (Zoning Districts and Allowable Land Uses), Chapter 9.28 (Combining Zones), Section 9.28.050 (Natural Hazards (:NH) Combining Zone) is hereby amended as shown in Exhibit 1, attached hereto and incorporated herein, where bold underline indicates new text, strikethrough indicates deleted text, and “* * *” indicates omitted text that is unchanged.

Section 5: Title IX, Article 7 (Planning Permit Procedures), Chapter 9.76 (Appeals), Section 9.76.020 (Appeal Subjects and Jurisdiction) is hereby amended as shown in Exhibit 1, attached hereto and incorporated herein, where bold underline indicates new text, strikethrough indicates deleted text, and “* * *” indicates omitted text that is unchanged.

Section 6: California Environmental Quality Act (CEQA) Determination. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the relocation of the Flood Hazard Mitigation Standards from one Title of the Municipal Code to another may have a significant effect on the environment.

Section 7: Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 8: Limitation of Actions. Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within thirty (30) days of the date of adoption of this ordinance.

Section 9: Effective Date. This Ordinance shall be effective 30 days after adoption.

Attachment: Exhibit 1

DATE: February 15, 2017

ATTEST:

/s/ Bridget Dory
City Clerk, City of Arcata

APPROVED:

/s/ Susan Ornelas
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1484, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 15th day of February, 2017, by the following vote:

AYES: ORNELAS, PEREIRA, PITINO, WINKLER

NOES: NONE

ABSENT: WHEETLEY

ABSTENTIONS: NONE

/s/ Bridget Dory
City Clerk, City of Arcata

EXHIBIT 1

TITLE IX—LAND USE CODE ARTICLE 10—GLOSSARY Chapter 9.100—Definitions

9.100.020—Definitions of specialized terms and phrases

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F. Definitions, "F."

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Flood Hazard Management. The following terms and phrases are defined for the purposes of Chapter 9.60 (Flood Hazard Mitigation Standards).

1. **Area of Shallow Flooding.** A designated AO, AH or Zone on the Flood Insurance Rate Map (FIRM). The base flood depth ranges 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.
2. **Base Flood.** See "100 year flood" definition.
3. **Basement.** Any area of a building having its floor below ground level on all sides.
4. **Breakaway Wall.** Any type of wall, whether solid or lattice, and constructed of concrete, masonry, wood, metal, plastic or any other suitable building material that is not part of the structural support of the building, and is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any building to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. The use of breakaway walls must be certified by a registered civil engineer or architect and shall meet the following conditions:
 - a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - b. The elevated portion of the building shall not incur structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.
5. **Coastal High Hazard Area.** The area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE or V.

6. **Exception.** - A grant of relief from the requirements of Chapter 9.60 which permits construction in a manner that would otherwise be prohibited by Chapter 9.60.
7. **Flood, or Flooding.** - A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of flood waters, (2) the unusual and rapid accumulation or run-off of surface waters from any source, and/or (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.
8. **Flood Boundary, and Floodway Map.** - The official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of flood hazard and the floodway.
9. **Flood Insurance Rate Map (FIRM).** 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.
10. **Flood Insurance Study.** - The official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
11. **Flood Plain.** - The relatively level land area on either side of the banks of a stream regularly subject to flooding. That part of the flood plain subject to a one percent chance of flooding in any given year is designated as an "area of special flood hazard" by the Federal Insurance Administration.
12. **Flood Plain Management.** - The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.
13. **Flood Plain Management Regulations.** Zoning articles, subdivision regulations, building codes, health regulations, special purpose ordinances (such as flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. State or local regulations in any combination, which provide standards for the purpose of flood damage prevention and reduction.
14. **Floodproofing.** 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.

15. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved from the intrusion of development that could result in any increase in flood levels during the occurrence of the base flood discharge. Also referred to as "Regulatory Floodway."

16. Functionally Dependent Use. A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

17. Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

18. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-residential design requirements of this Land Use Code.

19. Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referred.

20. National Flood Insurance Program. A federal program that authorizes the sale of federally subsidized flood insurance in communities where such flood insurance is not available privately.

21. New Construction. For flood plain management purposes, structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by this community.

22. 100-Year Flood. The magnitude of a flood expected to occur on the average every 100 years, based on historical data. The 100-year flood has a one percent chance of occurring in any given year. It is identical to the "base flood."

23. Remedy a Violation. To bring the structure or other development into compliance with State or local flood plain 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 Article or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

24. **Riverine.** - Relating to, formed by, or resembling a river (including tributaries), street, brook, etc.—

25. **Sand Dunes.** - Naturally occurring accumulations of sand in ridges or mounds landward of the beach.—

26. **Special Flood Hazard Area (SFHA).** - An area having special flood or flood related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, VO, V1-V30, VE or V.—

27. **Start of Construction.** - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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. - 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.

28. **Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the replacement cost of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged, and is being restored, before the damage occurred.

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

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

29. ~~Violation.~~ The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Article is presumed to be in violation until such time as that documentation is provided.

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ARTICLE 2—ZONING DISTRICTS AND ALLOWABLE LAND USES

Chapter 9.28—Combining Zones

9.28.050 Natural Hazards (:NH) Combining Zone

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B. Applicability

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4. ~~Special flood hazard areas.~~ Zone A as delineated on the Flood Insurance Rate Map (FIRM), adopted by reference and as specified in Chapter 9.60 (Flood Hazard Review). Proposed development and new land uses in these areas shall comply with the requirements of the Flood Hazard Review Process in Chapter 9.60 (Flood Hazard Review).

C. Permit requirements. Proposed development and new land uses shall comply with the planning permit requirements of the applicable primary zoning district, and the Geologic Hazard Review process (Chapter 9.62 - Geologic Hazard Review), and/or Flood Hazard Review process in **Title VIII, Chapter 4 of the Arcata Municipal Code** (Chapter 9.60 – Flood Hazard Review), as applicable.

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ARTICLE 7—PLANNING PERMIT PROCEDURES

Chapter 9.76—Appeals

9.76.020. Appeal Subjects and Jurisdiction

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B. Planning permit and hearing decisions

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2. Flood Plain Administrator. A determination, interpretation, or decision by the Flood Plain Administrator in compliance with Chapter 9.60 (Flood Hazard Mitigation Standards) **Title VIII, Chapter 4 of the Arcata Municipal Code**, may be appealed to the Planning Commission.

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