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**DEPARTMENT OF PLANNING AND BUILDING SERVICES**  
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**MEMORANDUM**

**DATE:** NOVEMBER 6, 2018  
**TO:** BOARD OF SUPERVISORS  
**FROM:** BILL KINSER, SENIOR PLANNER  
**RE:** OA\_ 2018-0002 AMENDMENT TO THE LOCAL COASTAL PROGRAM ADDING CHAPTER 22.17 (FLOODPLAIN ORDINANCE) AND AMENDING DIVISION II OF TITLE 20 OF THE MENDOCINO COUNTY CODE

**PROJECT DESCRIPTION:** Staff is submitting a proposed amendment (OA\_2018-0002) to the Local Coastal Program (LCP) consisting of: (1) the addition of Chapter 22.17 of the Mendocino County Code (Floodplain Ordinance) to the LCP and (2) accompanying changes to Division II of Title 20 of the Mendocino County Code (Coastal) resulting from adoption of the Floodplain Ordinance.

Chapter 22.17 (Floodplain Ordinance) was reviewed by the Planning Commission and adopted by the Board of Supervisors in 2017; however, the resulting changes to the Local Coastal Program have not been approved by the Board of Supervisors and certified by the California Coastal Commission. The following summarizes the changes that are recommended to the Local Coastal Program:

- Title 20 – Division II Chapter 20.420 contains the previous regulations for the floodplain combining districts replaced by Chapter 22.17. Chapter 20.420 will be repealed and replaced in its entirety to contain a single section that will require compliance with Chapter 22.17. The deletion of the existing Chapter 20.420 is not shown in strikethrough in the redline version of the ordinance attached to this agenda packet, but a clean version that is more readable is separately attached (Attachment F).
- Chapter 22.17 Floodplain Ordinance of the Mendocino County Code is added to the Local Coastal Program, by virtue of the updated Chapter 20.420. For information purposes, Chapter 22.17 is attached to this agenda packet (Attachment G).
- Title 20 – Division II Chapter 20.308 contains eleven (11) definitions of terms pertaining to floodplains (e.g., Floodplain, Floodway, etc.). It is recommended that the definitions be deleted and replaced by a reference to the definitions section in Chapter 22.17.
- Title 20 – Division II Section 20.500.030 addresses flood hazard development standards and refers to Chapter 20.420. The reference is amended to refer to Chapter 22.17.

**RELATED CASES:** The Board of Supervisors approved Ordinance Amendment OA\_2017-0002 on June 6, 2017 (Ordinance No. 4385) to amend and repeal the Floodplain Combining District Ordinances within Chapter 20.120 (Inland) of Division I of the Mendocino County Code and replaced with Chapter 22.17. The Floodplain Combining Districts provide County guidelines for development within Federal Emergency Management Agency (FEMA) designated floodplain and floodways. The amendments were made to comply with recent changes in federal and state regulations primarily dealing with the establishment of lowest floor, defining alternative methodologies for determining base flood elevation in areas not

specifically studied, development criteria for areas designated “coastal high hazard areas”, accessory structures and clarifying and adding definitions within the ordinance.

**GENERAL PLAN AND LOCAL COASTAL PROGRAM CONSISTENCY ANALYSIS:** The staff report prepared for the repeal and amendment of the Flood Plain Combining District Ordinance (OA-2017-0002) determined that the changes would be consistent with the applicable goals and policies of the General Plan, including the Coastal Element of the General Plan. The report noted that the Coastal Element of the General Plan contains limited reference to floodplains and the existing language would not require amendment. The Mendocino County General Plan Coastal Element (MCCE) was adopted by the Board of Supervisors and certified by the California Coastal Commission in 1985.

The MCCE Section 3.4 – Hazards Management provides policy direction for the coastal zone for areas subject to flooding. The Hazards Management section identifies six (6) major hazards in the coastal zone: Tsunami, seismic activity, land-sliding, shoreline and bluff erosion, flooding and fire. Three policies from the Coastal Act are referenced as applicable to management of environmental hazards. They are:

*Section 30253. New development shall:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

*Section 30235. Revetments, breakwaters, groins, harbor channels, seawalls, cliff-retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish-kills should be phased out or upgraded where feasible.*

*Section 30236. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.*

The MCCE Section 3.4 Hazard Issues narrative contains a brief discussion of flooding in the coastal zone.

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

MCCE Hazard Management Section 3.4 contains only one policy – Policy 3.4-11 - concerning flooding. It states:

*3.4-11: No development, except flood control projects, to protect existing structures, non-structural agricultural uses, and seasonal uses shall be permitted in the 100 year floodway unless mitigation measures in accordance with FEMA regulations are provided.*

MCCE Section 3.1 – Habitats and Natural Resources - provides policies to guide development in environmentally sensitive habitat areas (ESHAs) such as wetlands, riparian zones, wildlife habitat areas and other sensitive resources. Although the discussion of flood prone areas is limited, wetlands and riparian areas are usually in areas subject to flooding. Policy 3.1-9(2) addresses alterations of rivers and streams for flood control projects.

*3.1-9: Channelization, dams, or other substantial alterations of rivers and streams shall be limited to:*

- (1) Necessary water supply projects;*
- (2) Flood control projects where no other method for protecting structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development;*
- (3) Developments where the primary function is the improvement of fish and wildlife habitat which may include salmon restoration projects.*

*Where any of these uses are permitted the best feasible mitigation measures shall be incorporated into the development.*

In summary, adoption of Chapter 22.17 – Flood Plain Combining District Ordinance appears consistent with the Mendocino County Coastal Element.

Chapter 22.17 – Flood Plain Combining District, is replacing Chapter 20.420-FP-Floodplain Combining Districts of Division II of Title 20 in the coastal zone. The State Department of Water Resources (DWR) advised Mendocino County that its local ordinance needed to be updated to meet the current FEMA guidelines. The ordinance updates include the following modifications and/or additions:

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

The floodplain regulations that were contained in Chapter 20.420 of the Mendocino County Coastal Zoning Code were adopted by the Board of Supervisors and certified by the California Coastal Commission. The proposed changes update and improve the current ordinance and are consistent with the Local Coastal Program.

**ENVIRONMENTAL DETERMINATION:** Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; CEQA) does not apply to activities and approval by a local government as necessary for the preparation and adoption of a

local coastal program pursuant to the California Coastal Act (Public Resources Code 30000 et seq.), and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal plans is shifted from the County to the California Coastal Commission. Further, the Floodplain Ordinance (OA 2017-0002) was determined to be Categorically Exempt from CEQA, per Section 15308, which exempts actions of regulatory agencies for the protection of the environment.

### **RECOMMENDATION**

Recommend that the Board of Supervisors adopt Ordinance Amendment No. OA\_2018-0002, to amend the Local Coastal Program by adding Chapter 22.17 (Floodplain Ordinance) and amending the Coastal Zoning Code (Division II of Title 20) as recommended by the Planning Commission and that the Board adopt a resolution authorizing Planning and Building Services to submit a Local Coastal Program Amendment to the California Coastal Commission.

### **FINDINGS:**

That the Board of Supervisors finds:

1. That pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; CEQA) does not apply to activities and approvals by a local government as necessary for the preparation and adoption of a local coastal program pursuant to the California Coastal Act (Public Resources Code 30000 et seq.), and as provided by Section 15265 of the CEQA Guidelines (14 Cal. Code Regs, Section 15000 et seq.), the burden of CEQA compliance for local coastal plans is shifted from the County to the California Coastal Commission. Further, the Floodplain Ordinance (OA\_2017-0002) was determined to be Categorically Exempt from CEQA, per Section 15308, which exempts actions of regulatory agencies for the protection of the environment.
2. That the proposed amendment is consistent with the applicable goals of the Local Coastal Program.

### **ATTACHMENTS:**

- A. County of Mendocino Map with Coastal Zone
- B. County Flood Zones
- C. Resolution
- D. Draft Ordinance OA\_2018-0002 – Redline
- E. Draft Ordinance OA\_2018-0002 – Clean
- F. Approved Meeting Minutes for March 15, 2018 Planning Commission
- G. Planning Commission Packet
- H. Existing Chapter 20.420
- I. Existing Chapter 22.17