




AGENDA ITEM NO.
II

COUNTY OF HUMBOLDT

For the meeting of: June 26, 2018

Date: May 28, 2018

To: Board of Supervisors

From: John H. Ford, Director of Planning and Building 

Subject: Revisions to the County's Flood Damage Prevention Ordinance to Allow Temporary Structures in Mapped Flood Hazard Areas

RECOMMENDATIONS

That the Board of Supervisors

1. Introduce the proposed amendments to Section 335-5 of Humboldt County Code - the Flood Damage Prevention Ordinance - to Allow Temporary Structures in Mapped Flood Hazard Areas by title [Attachment 1]; and
2. Open the public hearing, receive and consider the staff report and proposed determination of exempt status under California Environmental Quality Act (CEQA), accept public comment, and close the public hearing; and
3. Deliberate on the proposed Ordinance; and
4. Adopt Ordinance No. 2603 [Attachment 1] amending Section 335-5 of Humboldt County Code - the Flood Damage Prevention Ordinance - to Allow Temporary Structures in Mapped Flood Hazard Areas; and

Prepared by Michael Richardson, Supervising Planner

CAO Approval 

REVIEW: Auditor _____ County Counsel JWR Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

PREVIOUS ACTION/REFERRAL:
 Agenda Order No.
 Meeting of:

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
 Upon motion of Supervisor Bass
 Seconded by Supervisor Fennell
 Ayes Bass, Fennell, Sundberg, Bohn
 Nays _____
 Abstain _____
 Absent Wilson

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: 6/26/18
 By: 
 Kathy Hayes, Clerk of the Board

5. Direct the Clerk of the Board to publish a Summary of the Ordinance within 15 days after adoption by the Board, along with the names of those Supervisors voting for and against each ordinance [Attachment 2] and to post in the Office of the Clerk of the Board of Supervisors a certified copy of the full text of the adopted ordinance along with the names of those Supervisors voting for and against the ordinance. Government Code Section 65858.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

This item involves adoption of amendments to the county's Flood Damage Prevention regulations (Section 335-5 of Humboldt County Code) to allow placement of temporary structures in mapped flood hazard areas for up to 180 days from April 16 through October 15. The ordinance was prepared in response to the county's inability to process building permit applications for placement of temporary "hoop houses" in flood hazard zones.

Presently the ordinance requires all new construction including hoop houses in flood hazard areas to meet all the following requirements:

- The structure must be anchored to the ground with an engineered foundation;
- The structure must be constructed of flood resistive materials, such as wood or metal; and
- The structure must be elevated above the base flood elevation.

Placement of plastic hoop houses are not allowed because they are not anchored to the ground with concrete footings, they are constructed using PVC piping covered with clear plastic sheeting, and they are not elevated above the ground. Accordingly, recent building permit applications for placement of temporary hoop houses in flood hazard zones for cultivation of commercial cannabis could not be processed.

The proposed amendments would allow an exception to the anchoring, flood resistive material and elevation above the flood requirements for temporary structures placed within a flood hazard area for a period of up to 180 days between April 16 and October 14 of each year.

There are several ways the proposed ordinance amendments are in the public interest. First, the ordinance amendments would have economic benefits to cannabis growers located in flood hazard areas. Hoop houses are widely used for permitted cannabis cultivation outside of flood hazard areas because they are a cost effective means to increase the quantity and quality of cannabis products grown locally. Allowing them to be used in flood hazard areas would enable persons engaged in cannabis cultivation to realize these same market efficiencies, making them more competitive in the statewide marketplace.

Second, hoop houses are normally removed during the winter months to prevent storm damage to the structures. And because hoop houses are not needed in the winter when the flood hazards occur, there is no public safety benefit to having those structures anchored to the ground with an engineered foundation, built of flood resistive materials, or elevated above the

base flood elevation. The proposed ordinance revision would better align the county's Flood Prevention Ordinance with the goal to protect public safety.

Lastly, the ordinance amendments are expected to reduce the number of year-round permanent structures built in flood hazard areas. Cannabis growers in flood hazard areas are presently choosing to build year-round permanent greenhouses on their property instead of hoop houses because of the county's requirements. If the ordinance is amended to allow hoop houses, they would not build year-round permanent greenhouses. Reducing the number of year-round permanent structures in flood hazard areas is expected to decrease property damage and loss from floods.

CEQA Compliance

Adoption of the proposed ordinance amendments is exempt from environmental review under Section 15305 of the CEQA Guidelines - Minor Alterations in Land Use Limitations because the average slope of flood hazard areas is less than 20%, and the proposed amendments do not result in any changes in land use or density. The land occupied by temporary hoop houses would continue to be used for agricultural purposes. For these reasons, staff believes the proposed ordinance is exempt from further environmental review under CEQA.

FINANCIAL IMPACT:

Staff costs for preparation and review of this ordinance are less than \$2,000. These costs are supported by the General Fund contribution to the Planning and Building Department, Long Range Planning Unit's FY 2017-18 budget.

The proposed ordinance amendment is consistent with the Board's 2018 Strategic Framework as it will encourage new local enterprise, and support business, workforce development and creation of private-sector jobs. The proposed amendments also align the county's regulations with current external realities.

OTHER AGENCY INVOLVEMENT:

Besides County Counsel and the County Administrative Office, no other agencies have been involved in developing these ordinance amendments.

ALTERNATIVES:

Board discretion.

ATTACHMENTS:

Attachment 1: Ordinance No. 2603 Amending Section 335-5 of Humboldt County Code - the Flood Damage Prevention Ordinance - to Allow Temporary Structures in Mapped Flood Hazard Areas.

Attachment 2: Post-Adoption Summary of the Ordinance.

ATTACHMENT 1

Amending Section 335-5 of Humboldt County Code - the Flood Damage Prevention Ordinance - to Allow Temporary Structures in Mapped Flood Hazard Areas

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

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AMENDING SECTION 335-5 OF HUMBOLDT COUNTY CODE - THE FLOOD DAMAGE PREVENTION ORDINANCE - TO ALLOW TEMPORARY STRUCTURES IN MAPPED FLOOD HAZARD AREAS

ORDINANCE NO. 2603

The Board of Supervisors of the County of Humboldt ordains as follows:

WHEREAS, Section 335-5 of Humboldt County Code requires all new construction including hoop houses in flood hazard areas to meet all the following requirements:

- The structure must be anchored to the ground with an engineered foundation;
- The structure must be constructed of flood resistive materials, such as wood or metal; and
- The structure must be elevated above the base flood elevation; and

WHEREAS, placement of plastic hoop houses for cannabis cultivation are not allowed because they are not anchored to the ground with concrete footings, they are constructed using PVC piping covered with clear plastic sheeting, and they are not elevated above the ground; and,

WHEREAS, the proposed amendments would allow an exception to the anchoring, flood resistive material and elevation above the flood requirements for temporary structures placed within a flood hazard area for a period of up to 180 days between April 16 and October 14 of each year; and,

WHEREAS, the ordinance amendments would have economic benefits to cannabis growers located in flood hazard areas because hoop houses are a cost effective means to increase the quantity and quality of cannabis products grown locally, so allowing them to be used in flood hazard areas would enable persons engaged in cannabis cultivation to realize market efficiencies, making them more competitive in the statewide marketplace; and,

WHEREAS, hoop houses are normally removed during the winter months to prevent storm damage to the structures, and because hoop houses are not needed in the winter when the flood hazards occur, there is no public safety benefit to having those structures anchored to the ground with an engineered foundation, built of flood resistive materials, or elevated above the base flood elevation, so the proposed would better align the County's Flood Prevention Ordinance with the goal to protect public safety; and,

WHEREAS, the ordinance amendments are expected to reduce the number of year-round permanent structures built in flood hazard areas because cannabis growers in flood hazard areas are presently choosing to build year-round permanent greenhouses on their property instead of hoop houses because of the County's requirements; and

WHEREAS, reducing the number of year-round permanent structures in flood hazard areas is expected to decrease property damage and loss from floods;

WHEREFORE, the Board of Supervisors of the County of Humboldt finds as follows:

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1. For the reasons set forth in the above recitals the ordinance amendments are in the public interest and public safety.
2. The ordinance amendments is exempt from environmental review under Section 15305 of the CEQA Guidelines - Minor Alterations in Land Use Limitations because the average slope of flood hazard areas is less than 20%, and the proposed amendments do not result in any changes in land use or density because the land occupied by temporary hoop houses would continue to be used for agricultural purposes.

NOW, THEREFORE the Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Section 335-5 in Title III, Division 3, Chapter 5 of the Humboldt County Code is hereby amended as follows (shown in strikeout and underline):

335-5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

(a) Construction Standards in Areas of Special Flood Hazard. In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

a. All new construction and substantial improvement shall be 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 one of the anchoring standards of Section 335-5(e).

(2) Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall use methods and practices that minimize flood damage.

c. 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.

Exception: Electrical Equipment serving non-structural facilities need not be elevated above the Base Flood Elevation provided; the height to the top of the meter socket enclosure shall be 72 inches above grade.

d. All elements that function as part of the structure, such as furnace, hot water heater, air conditioner, etc., should be elevated to or above the base flood elevation or

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depth number specified on the FIRM.

e. All new construction and substantial improvement within Zones AH or AO, shall be constructed so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures. (Ord. 2102, § 9, 1/9/96)

(3) Elevation and Floodproofing.

a. New construction and substantial improvement of any structure in a Special Flood Hazard Area (SFHA) shall have the lowest floor, including basement, elevated to one foot (1') above the base flood elevation. Non-residential structures may meet the standards in Section 335-5(a)(3)d. Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor or verified by the local building inspector to meet elevation requirements. (Ord. 2560, § 1, 10/04/2016)

Notification of compliance shall be recorded as set forth in Section 335-4(c)(3)a.

b. New construction and substantial improvement of any structure in an area of shallow flooding or a zone designated AO on the FIRM map shall have the lowest floor, including basement, elevated to one foot (1') above the depth number on the FIRM. If there is no depth number of the FIRM, the lowest floor, including basement, shall be elevated at least three feet (3') above the highest adjacent grade. Nonresidential structures may meet standards in Section 335-5(a)(3)d. Upon completion of the structure, compliance with the elevation requirement shall be certified by a registered professional engineer or surveyor or verified by the Director. Notification of compliance shall be recorded as provided by Section 335-4(c)(3)b. (Ord. 2560, § 1, 10/04/2016)

c. Manufactured homes shall meet the above standards and must meet the standards in Section 335-5(e).

d. Nonresidential construction shall either be elevated in conformance with Section 335-5(a)(3)a or b, or, together with attendant utility and sanitary facilities:

1. Be floodproofed so that one foot (1') above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (Ord. 2560, § 1, 10/04/2016)

2. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Director as provided by Section 335-5(a)(3)b.

e. Fully enclosed areas below the lowest floor shall be designed to automatically equalize the hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must be certified by a registered professional engineer or

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architect or have at least two openings with a total net area of at least one square inch per square foot of flooded area. The openings shall be no more than one foot above grade.

f. Garage and low cost Accessory Structures.

1. Attached garages.

A. A garage attached to a residential structure constructed with the garage floor slab below the BFE, must be designed to allow for automatic entry of flood waters, see Section 335-5(a)(3)e. Areas of the garage below the BFE must be constructed with flood resistant materials, see Section 335-5(a)(2). (Ord. 2560, § 1, 10/04/2016)

B. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. (Ord. 2560, § 1, 10/04/2016)

2. Detached garages and accessory structures with the lowest floor below the base floor elevation will require a variance per Section 335-8. (Ord. 2560, § 1, 10/04/2016)

(4) Exceptions for Temporary Structures. The Building Official is authorized to issue a permit for a temporary structure that does not meet the requirements of Sections 335-5(a)(1) - 335-5(a)(3) provided the temporary structure is:

a. Constructed of materials that are easily removable; and

b. Removed from the Areas of Special Flood Hazard each flood hazard season (between October 15 and April 15).

The permit for a temporary structure shall not be permitted for more than 180 days. The Building Official is authorized to grant extensions for demonstrated cause.

(b) Standards for Storage of Materials and Equipment. After the effective date of this chapter, application for new storage in areas designated on FIRM or Flood Boundary Maps shall meet the following criteria:

(1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life are generally prohibited.

(2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.

(c) Standards for Utilities.

(1) All new and replacement water supply and sanitary sewage systems shall be

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designed to minimize or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.

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

(d) Standards for Subdivisions and other proposed Development. See section 322-4 of the Humboldt County Code for subdivision requirements. (Ord. 2102, § 11, 1/9/96; Ord. 2560, § 1, 10/04/2016)

(1) All new subdivision proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser shall: (Ord. 2560, § 1, 10/04/2016)

a. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE). (Ord. 2560, § 1, 10/04/2016)

b. Identify the elevations of the lowest floors of all proposed structures and pads on the final plans. (Ord. 2560, § 1, 10/04/2016)

c. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator: (Ord. 2560, § 1, 10/04/2016)

1. Lowest floor elevation.

2. Pad elevation.

3. Lowest adjacent grade.

(2) All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage. (Ord. 2560, § 1, 10/04/2016)

(3) All subdivision proposals and other proposed developments shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage. (Ord. 2560, § 1, 10/04/2016)

(4) All subdivision proposals and other proposed developments shall be provided adequate drainage to reduce exposure to flood hazards. (Ord. 2560, § 1, 10/04/2016)

(e) Standards for Manufactured Homes and Manufactured Home Parks and Subdivisions.

(1) All manufactured homes that are placed or substantially improved, within Zones A, A1-30, AO, AH, and AE on the community's Flood Insurance Rate Map, on sites located

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- a. outside of a manufactured home park or subdivision,
- b. in a new manufactured home park or subdivision,
- c. in an expansion to an existing manufactured home park or subdivision, or
- d. in an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a designed permanent foundation system so that the lowest floor of the manufactured home is elevated to 1 foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. For manufactured homes that are placed or substantially improved, within Zones V, V1-30 and VE on the community's Flood Insurance Rate Map the requirements of Section 335-7 shall be met. (Ord. 2560, § 1, 10/04/2016)

(2) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, A1-30, AO, AH, AE, V, V1-30 and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of section 335-5(e)(1) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement and be elevated so that either the (Ord. 2560, § 1, 10/04/2016)

- a. lowest floor of the manufactured home is one foot (1') above the base flood elevation, or
- b. manufactured home chassis is supported on a designed foundation system by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade. (Ord. 2560, § 1, 10/04/2016)

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator. (Ord. 2560, § 1, 10/04/2016)

(3) The developer responsible for the plan, the installer or State agency responsible for regulating manufactured home placement shall certify that the manufactured home complies with this section. The certificate shall be filed with the Director as required by Section 335-4(c) (3)e. (Ord. 1541, § 4, 7/13/82; Ord. 1746, § 2, 7/15/86)

(f) Standards for Recreational Vehicles.

- (1) All recreational vehicles placed on sites within Zones A, A1-30, AO, AH, AE, V, V1-30 and VE on the community's Flood Insurance Rate Map will: (Ord. 2560, § 1, 10/04/2016)
 - a. Be on the site for fewer than 180 days annually; and

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b. Limit placement of unit to the period of May 1 to October 29; and

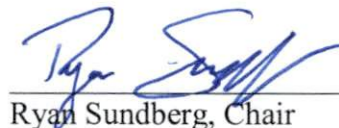
c. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; and (Ord. 2560, § 1, 10/04/2016)

d. Standards for permanent equipment and utilities shall be as required in Section 335-5 of the Humboldt County Code.

(2) Recreation vehicles on sites within Zones V, V1-30 and VE on the community's Flood Insurance Rate Map will meet the requirements of Section 335-5(f)(1) and Section 335-7. (Ord. 2560, § 1, 10/04/2016)

PASSED, APPROVED AND ADOPTED this 26th day of June, 2018 on the following vote, to wit:

AYES:	Supervisors	Fennell, Bohn, Sundberg, Bass
NOES:	Supervisors	--
ABSENT:	Supervisors	Wilson



Ryan Sundberg, Chair
Board of Supervisors of the County of Humboldt,
State of California

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
of the County of Humboldt, State of California

By: _____
Ryan Sharp, Deputy

ATTACHMENT 2

Post-Adoption Summary of Ordinance, amending
Chapter 4 of Division 1 of Title III of the County Code
for Areas Outside the Coastal Zone

SUMMARY OF ORDINANCE

(To be published within fifteen days after adoption of this ordinance.)

On June 26, 2018, during its regularly scheduled Board meeting, the Humboldt County Board of Supervisors adopted Ordinance No. _____.

These amendments modify Section 335-5 of Humboldt County Code - the Flood Damage Prevention Ordinance - to Allow Temporary Structures in Mapped Flood Hazard Areas. More specifically, the amendments allow the Chief Building Official to issue permits for a 180 day time period for temporary structures in flood hazard areas when those structures do not meet all the anchoring, flood resistance and flood proofing requirements for permanent structures.

A copy of the ordinance is posted in the office of the Clerk of the Board of Supervisors, 825 Fifth Street, Room 111, Eureka, California 95501-1153, and is available online on the County's website.

The names of the Supervisors voting for and against are as follows:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors: