

AN ORDINANCE OF THE COUNTY OF BUTTE
AMENDING SECTIONS 26-22, 26-24, 26-25, 26-29 AND 26-33 TO ARTICLE IV,
ENTITLED "FLOOD HAZARD PREVENTION," OF CHAPTER 26, ENTITLED
"BUILDINGS," OF THE BUTTE COUNTY CODE

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

SECTION 1. Section 26-22 of the Butte County Code is amended to read as follows:

26-22-Permits.

(a) Additional requirements in flood hazard zones. Within flood hazard Zones A, AE, AH and AO, on the official maps there are additional requirements in conjunction with the issuance of development permits for new construction, substantial improvements and other developments, including the placement of manufactured homes and pre-fabricated buildings, as set forth in this article.

(b) Application. To obtain a development permit in said zones, the applicant shall first file an application therefore in writing on a county form furnished for that purpose by the department of Development Services and approved by the director of Development Services. Every such application shall:

- (1) Identify and describe the work to be covered by the permit for which application is made;
- (2) Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
- (3) Indicate the use or occupancy for which the proposed work is intended;

1 (4) Be accompanied by plans and specifications for the proposed development drawn
2 to scale, and showing the dimensions and elevation of the site on which the proposed
3 work is to be done, existing and/or proposed structures, fill, storage of materials and
4 drainage facilities;

5 (5) Be signed by the permittee or his authorized agent who may be required to submit
6 evidence to indicate such authority;

7 (6) Be accompanied by:

8 a. The proposed National Geodetic Vertical Datum ("NGVD") elevation of the
9 lowest floor of all structures or, in the case of any nonresidential structure which
10 will be flood proofed, the proposed NGVD elevation to which it will be flood
11 proofed; or

12 b. In AO zones, the minimum vertical distance above the highest adjacent grade
13 for the lowest floor;

14 (7) Be accompanied by all appropriate certifications required for lowest floor
15 elevations for all structures, flood proofing of nonresidential structures, wet flood
16 proofing and floodway encroachments;

17 (8) Give such other information as reasonably may be required by the county.

18 **SECTION 2.** Section 26-24 of the Butte County Code is amended to read as follows:

19 **26-24 Same--Criteria for evaluation.**

20 (a) The county, in reviewing all applications for new construction, substantial
21 improvements, prefabricated buildings, placement of manufactured homes and other
22 development(s) (as defined in section 26-29 of this article), and when reviewing the work
23 being performed, will:

1 (1) Obtain, review, and reasonably utilize, if available, any regulatory flood elevation and
2 floodway data from federal, state or other sources, until such other data is provided by the
3 Federal Insurance Administration in a flood insurance study;

4 (2) Require the use of construction materials and utility equipment that are resistant to
5 flood damage;

6 (3) Require the use of construction methods and practices that will minimize flood
7 damage;

8 (4) Require buildings, manufactured homes and pre-fabricated buildings to be designed or
9 anchored to prevent the flotation, collapse or lateral movement of the structure or portions
10 of the structure due to flooding;

11 (5) Assure electrical, heating, ventilation, plumbing and air conditioning equipment and
12 other service facilities shall be designed and/or located so as to prevent water from
13 entering or accumulating within the components during conditions of flooding;

14 (6) Assure encroachments, including fill, new construction, substantial improvements and
15 other development, shall be prohibited in any floodway unless approval is provided by the
16 Central Valley Flood Protection Board and written documentation by a registered
17 professional engineer demonstrates that the encroachments will not result in any increase
18 in flood levels during the occurrence of the base flood discharge. Such written
19 documentation shall be provided to the floodplain administrator or designee;

20 (7) Require, for all new construction and substantial improvements, that fully enclosed
21 areas below the lowest floor that are subject to flooding shall be designed to automatically
22 equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of
23 floodwaters. Openings in foundation walls shall comply with the requirements set forth in
24 current FEMA Technical Bulletins and shall be certified by a registered professional

1 engineer or architect. Such certification shall be provided to the Director of Development
2 Services or designee; and

3 (8) Require the completion and submittal of an Elevation Certificate, FEMA Form 81-31
4 or a more current comparable FEMA approved form, at three stages in the process, as set
5 forth in the Building Elevation Information (Survey Required) section of the form: a
6 Construction Drawings Certificate to be submitted prior to the issuance of the building
7 permit; a Building Under Construction Certificate to be submitted prior to the approval of
8 framing inspections; and a Finished Construction Certificate to be submitted prior to the
9 final inspection of the building permit. Such certification shall be provided to the Director
10 of Development Services or designee. The following exception to this requirement applies
11 to manufactured homes and pre-fabricated buildings: the Building Under Construction
12 Certificate shall not be required.

13 (b) The county, in addition to the requirements in subsection (a) of this section, will:

14 (1) Require, within areas designated as Zones AE and AH on the official map, that the
15 following standards are met:

16 a. The lowest floor elevation of new residential structures and substantial improvements to
17 residential structures shall be elevated a minimum of one (1) foot or more above the BFE.

18 b. The lowest floor elevation of new or substantially improved nonresidential structures
19 shall either meet section 26-24(b)(1)(a); or, such nonresidential structures, together with
20 attendant utility and sanitary facilities, shall:

21 1. Be flood proofed so that below the BFE the structure is watertight with walls
22 substantially impermeable to the passage of water,

23 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads
24 and effects of buoyancy, and

1 3. Be certified by a registered professional engineer or architect that the design and
2 methods of construction are in accordance with accepted standards of practice for meeting
3 the provisions of this subsection. Such certification shall be provided to the Director of
4 Development Services or designee;

5 (2) Require within any area designated as Zone AO on the official map, that the following
6 standards are met:

7 a. The lowest floor elevation of new and substantially improved residential structures shall
8 be elevated above the highest adjacent grade at least one (1) foot higher than the depth
9 number specified in feet on the official map (at least three (3) feet if no depth number is
10 specified).

11 b. The lowest floor elevation of new or substantially improved nonresidential structures
12 shall either meet section 26-24(b)(2)(a) or such nonresidential structures, together with
13 attendant utility and sanitary facilities, shall:

14 1. Be flood proofed below the elevation as specified under section 26-24(b)(2)(a) so that
15 the structure is watertight with walls substantially impermeable to the passage of water,

16 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads
17 and effects of buoyancy, and

18 3. Be certified by a registered professional engineer or architect that the design and
19 methods of construction are in accordance with accepted standards of practice for meeting
20 the provisions of this subsection. Such certification shall be provided to the Director of
21 Development Services or designee;

22 (3) In an A Zone, without BFE's specified on the FIRM (unnumbered A Zone), all
23 structures, residential and non residential, shall be elevated at least one (1) foot above the
24 BFE as determined by methods comparable to those in a Flood Insurance Study or by

1 using the detailed methods as described in the most current edition of FEMA publication,
2 FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas - A
3 Guide for Obtaining and Developing Base (100-year) Flood Elevations" or any successor
4 FEMA document.

5 (4) Assure that in regard to manufactured homes that the following standards are met:

6 a. Areas designated Zone AO:

7 1. All manufactured homes that are placed or substantially improved shall be elevated on a
8 permanent foundation system such that the lowest floor is elevated above the highest
9 adjacent grade at least one (1) foot or more than the depth number specified in feet on the
10 official map (at least (3) feet if no depth number is specified),

11 2. All manufactured homes that are placed or substantially improved shall be anchored to
12 resist flotation, collapse or lateral movement, and installed in accordance with the
13 requirements set forth in the current FEMA Publication entitled "Manufactured Home
14 Installation in Flood Hazard Areas,"

15 b. Areas designated Zones A, AE and AH:

16 1. Require that all manufactured homes to be placed or substantially improved be elevated
17 on a permanent foundation system such that the lowest floor of the manufactured home is
18 elevated one (1) foot or more above the regulatory flood elevation, and shall meet the
19 provisions of subsection (b)(3)(a)(2) of this section;

20 (5) Require, within Zones AH and AO, adequate drainage paths around structures on
21 slopes, to guide floodwaters around and away from proposed structures.

22 (c) The Director of Development Services or designee shall, upon completion of building
23 construction, certify to the floodplain administrator, compliance with the provisions of this
24 section.

1 (d) The floodplain administrator shall complete a biennial report and submit it to the
2 Federal Emergency Management Agency.

3 **SECTION 3.** Section 26-25 of the Butte County Code is amended to read as follows:

4 **Section 26-25 Subdivision applications.**

5 All applications for the division of land filed in Zones A, AE, AH and AO on the official
6 map shall be reviewed by the Department of Public Works to assure that:

7 (A) All such proposed developments are consistent with the need to minimize flood
8 damage.

9 (B) Subdivision and parcel maps shall, as a condition of approval, establish regulatory
10 flood elevations and note same on the map prior to recordation of the map.

11 (C) Adequate drainage is provided so as to reduce exposure to flood hazards.

12 (D) All public utilities and facilities are located so as to minimize or eliminate flood
13 damage.

14 **SECTION 4.** Section 26-29 of the Butte County Code is amended to read as follows:

15 **Section 26-29 Definitions.**

16 Terms or words as used in this chapter shall have the meaning as defined in 44 Code of
17 Federal Regulations (CFR), Chapter 1, Subchapter B, Insurance and Hazard Mitigation,
18 National Flood Insurance Program, Part 59-General Provisions, Subpart A-General unless
19 specifically defined below. Words or phrases used in this article not defined in 44 CFR or
20 below shall be interpreted so as to give them the same meanings as they have in common
21 usage and so as to give this article its most reasonable applications:

22 (1) Areas of Shallow Flooding: The land within the County designated AO and AH on
23 the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) foot to
24 three (3) feet; a clearly defined channel does not exist; the path of flooding is

1 unpredictable and indeterminate; and velocity flow may be evident. Such flooding is
2 characterized by ponding or sheet flow.

3 (2) Base flood: A flood which has a one percent (1%) chance of being equaled or
4 exceeded in any given year (also called the "100-year flood"). Base flood is the term used
5 throughout this article.

6 (3) Base flood elevation (BFE): The elevation shown on the Flood Insurance Rate Map
7 for Zones AE and AH that indicates the water surface elevation resulting from a flood that
8 has a one percent (1%) or greater chance of being equaled or exceeded in any given year.

9 (4) Basement: Any area of the building having its floor subgrade - i.e., below ground
10 level - on all sides.

11 (5) Development: Any manmade change to improved or unimproved real estate,
12 including but not limited to the placement, construction, reconstruction, removal or
13 abandonment of any building or other structure or encroachment, or agricultural practice,
14 mining, dredging, filling, grading, paving, excavation, drilling operations or storage of
15 equipment or materials, except agricultural practices which can be demonstrated not to
16 increase flood levels upstream or downstream.

17 (6) Encroachment: Any obstruction or physical intrusion, including, but not limited to
18 those caused by a building or other structure, or by the planting, abandonment or removal
19 of vegetation or development into a floodplain which may impede or alter the flow
20 capacity of a floodplain (except planting or removal of vegetation for agricultural purposes
21 and which can be demonstrated not to increase flood levels upstream or downstream).

22 (7) Flood: A temporary rise in a stream's flow or state that results in water overflowing
23 its banks and inundating areas adjacent to the channel, or an unusual and rapid
24 accumulation of runoff or surface waters from any source.

1 (8) Flood insurance rate map (FIRM): The official map on which the Federal Emergency
2 Management Agency or Federal Insurance Administration has delineated both the areas of
3 special flood hazards and the risk premium zones applicable.

4 (9) Flood insurance study: The official report provided by the Federal Insurance
5 Administration that includes flood profiles, the flood insurance rate map, the flood
6 boundary and floodway map, and the water surface elevation of the base flood.

7 (10) Flood proofing: Any combination of structural and nonstructural additions, changes
8 or adjustments to structures, including utility and sanitary facilities, which would preclude
9 the entry of water. Structural components shall have the capability of resisting hydrostatic
10 and hydrodynamic loads and the effect of buoyancy.

11 (11) Floodway: The channel of a river or other watercourse and the adjacent land areas
12 that must be reserved in order to discharge the base flood without cumulatively increasing
13 the water surface elevation more than one (1) foot.

14 (12) Highest adjacent grade: The highest natural elevation of the ground surface prior to
15 construction next to the proposed walls of a structure.

16 (13) Historic structure: Any structure that is:

- 17 1. Listed individually in the National Register of Historic Places (a listing maintained
18 by the Department of Interior) or preliminarily determined by the Secretary of the
19 Interior as meeting the requirements for individual listing on the National Register;
- 20 2. Certified or preliminarily determined by the Secretary of the Interior as
21 contributing to the historical significance of a registered historic district or a district
22 preliminarily determined by the Secretary to qualify as a registered historic district;
- 23 3. Individually listed on a state inventory of historic places in states with historic
24 preservation programs which have been approved by the Secretary of Interior; or

1 4. Individually listed on a local inventory of historic places in communities with
2 historic preservation programs that have been certified either by an approved state
3 program as determined by the Secretary of the Interior or directly by the Secretary
4 of the Interior in states without approved programs.

5 (14) Lowest adjacent grade: The lowest natural elevation of the ground surface prior to
6 construction next to the proposed walls of a structure.

7 (15) Lowest floor: The lowest floor of the lowest enclosed area (including basement). An
8 unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building
9 access or storage, in any area other than a basement area, is not considered a building's
10 lowest floor, provided that such enclosure is not built so as to render the structure in
11 violation of the applicable non elevated design requirements of this article.

12 (16) Manufactured home: For the purposes of this article, a structure, transportable in one
13 (1) or more sections, which is built on a permanent chassis and designed to be used with or
14 without a permanent foundation when connected to the required utilities and does not
15 include a recreational vehicle, or travel trailer.

16 (17) Manufactured home park (subdivision): "Manufactured home subdivision" means a
17 parcel (or contiguous parcels) of land which has been divided into two (2) or more lots for
18 rent or sale and the placement of manufactured homes.

19 (18) New construction: For the purposes of this article, means structures for which the
20 "start of construction" commenced on or after the effective date of flood plain
21 management regulations adopted by this county, and includes any subsequent
22 improvements to such structures.

23 (19) Recreational vehicle: A vehicle which is:

24 A. Built on a single chassis;

1 B. 400 square feet or less when measured at the largest horizontal projection;

2 C. Designed to be self-propelled or permanently towable by a light-duty truck; and

3 D. Designed primarily not for use as a permanent dwelling but as temporary living
4 quarters for recreational, camping, travel, or seasonal use.

5 (20) Special flood hazard area (SFHA): An area in the floodplain subject to a one percent
6 (1%) or greater chance of flooding in any given year. It is shown on an FHBM or FIRM
7 as Zone A, AO, AE, or AH.

8 (21) Start of construction: Means the date the building permit was issued, provided the
9 actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or
10 other improvement was within one year from the date of the permit. The actual start
11 means either the first placement of permanent construction of a structure on a site, such as
12 the pouring of slab or footings, the installation of piles, the construction of columns, or any
13 work beyond the stage of excavation; or the placement of a manufactured home or pre-
14 fabricated building on a foundation. Permanent construction does not include land
15 preparation, such as clearing, grading, and filling; nor does it include the installation of
16 streets and/or walkways; nor does it include excavation for a basement, footings, piers, or
17 foundations or the erection of temporary forms; nor does it include the installation on the
18 property of accessory buildings, such as garages or sheds not occupied as dwelling units or
19 not part of the main structure. For a substantial improvement, the actual start of
20 construction means the first alteration of any wall, ceiling, floor, or other structural part of
21 a building, whether or not that alteration affects the external dimensions of the building.

22 (22) Structure: A walled and roofed structure, including a gas or liquid storage tank that
23 is principally above the ground, including but without limitation to buildings, factories,
24 sheds, cabins, and manufactured homes.

1 (23) Substantial damage: Damage of any origin sustained by a structure whereby the cost
2 of restoring the structure to it's before damaged condition would equal or exceed fifty (50)
3 percent of the market value of the structure before the damage occurred.

4 (24) Substantial improvement: Means any reconstruction, rehabilitation, addition, or
5 other proposed new development of a structure, the cost of which equals or exceeds fifty
6 (50) percent of the market value of the structure before the "start of construction" of the
7 improvement. The Substantial improvement cost is cumulative and includes all
8 improvements that are not listed below as being excepted and that have occurred within
9 the proceeding five years. This term includes structures which have incurred "substantial
10 damage", regardless of the actual repair work performed. The term does not, however,
11 include either:

12 a. Any project for improvement of a structure to correct existing violations or state or local
13 health, sanitary, or safety code specifications which have been identified by the local code
14 enforcement official and which are the minimum necessary to assure safe living
15 conditions; or

16 b. Any alteration of a "historic structure", provided that the alteration will not preclude the
17 structure's continued designation as a "historic structure."

18 (25) Violation: The failure of a structure or other development to be fully compliant with
19 this article. A structure or other development without the elevation certificate, other
20 certifications, or other evidence of compliance required in this article is presumed to be in
21 violation until such time as that documentation is provided.

22 (26) 100-year flood: The condition of flooding having a one percent (1%) chance of
23 annual occurrence.

24 **SECTION 5.** Section 26-33 of the Butte County Code is amended to read as follows:

1 **26-33 Conditions for variances.**

2 Applications for a variance to the flood plain requirements shall be heard and decided as
3 follows: for a lot of one-half acre or less by the Zoning Administrator, or if there is no
4 Zoning Administrator, by the Planning Manager; and for a lot of greater than one-half
5 acre by the Planning Commission. For historic structures, an application for a variance
6 shall be heard and decided by the Zoning Administrator, or if there is no Zoning
7 Administrator, by the Planning Manager regardless of the size of the lot on which it is
8 located.

9 (a) Generally, variances may be issued for new construction, substantial improvement,
10 and other proposed new development to be erected on a lot of one-half acre or less in size
11 contiguous to and surrounded by lots with existing structures constructed below the base
12 flood level, providing that the procedures of this article have been fully considered. As
13 the lot size increases beyond one-half acre, the technical justification required for issuing
14 the variance increases.

15 (b) Variances may be issued for the repair or rehabilitation of "historic structures" (as
16 defined in Section 26-29 of this code) upon a determination that the proposed repair or
17 rehabilitation will not preclude the structure's continued designation as an historic
18 structure and the variance is the minimum necessary to preserve the historic character and
19 design of the structure.

20 (c) Variances shall not be issued within any mapped regulatory floodway if any increase
21 in flood levels during the base flood discharge would result.

22 (d) Variances shall only be issued upon a determination that the variance is the
23 "minimum necessary" considering the flood hazard, to afford relief. "Minimum
24 necessary" means to afford relief with a minimum of deviation from the requirements of

1 this article. For example, in the case of variances to an elevation requirement, this means
2 the County of Butte need not grant permission for the applicant to build at grade, or even
3 to whatever elevation the applicant proposes, but only to that elevation which the County
4 of Butte believes will both provide relief and preserve the integrity of this article.

5 (e) Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a
6 determination that failure to grant the variance would result in exceptional hardship to the
7 applicant, and (iii) a determination that the granting of a variance will not result in
8 increased flood heights, additional threats to public safety, extraordinary public expense,
9 create nuisances, cause fraud on or victimization of the public, or conflict with existing
10 local laws or ordinances;

11 (f) The County shall notify the applicant in writing over the signature of the Director of
12 Development Services or designee that (i) the issuance of a variance to construct a
13 structure below the base flood level will result in increased premium rates for flood
14 insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such
15 construction below the base flood level increases risks to life and property. Such
16 notification shall be maintained with a record of all variance actions as required in
17 paragraph H of this section; and

18 (g) The Director of Development Services or designee shall (i) maintain a record of all
19 variance actions, including justification for their issuance, and (ii) provide such
20 information on variances to the floodplain administrator. The floodplain administrator
21 shall report on variances in its biennial report submitted to the FEMA .

22 (h) Variances may be issued for new construction and substantial improvements and for
23 other development necessary for the conduct of a functionally dependent use provided
24 that (i) the criteria of paragraphs C through F of this section are met, and (ii) the structure

1 or other development is protected by methods that minimize flood damages during the
2 base flood and create no additional threats to public safety.

3 (i) Variances may be appealed, upon paying the required appeal fee as set forth in the
4 Butte County Master Fee Schedule, in the following manner: from the Zoning
5 Administrator/Planning Manager to the Planning Commission; and from the Planning
6 Commission to the Board of Supervisors.

7 **SECTION 6.** Severability. If any provision of this Ordinance or the application thereof to any
8 person or circumstances is for any reason held to be invalid by a court of competent jurisdiction,
9 such provision shall be deemed severable, and the invalidity thereof shall not affect the
10 remaining provisions or other applications of the Ordinance which can be given effect without
11 the invalid provision or application thereof.

12 **SECTION 7.** Effective Date and Publication. This Ordinance shall take effect thirty (30) days
13 after the date of its passage. The Clerk of the Board of Supervisors is authorized and directed to
14 publish this ordinance before the expiration of fifteen (15) days after its passage. This Ordinance
15 shall be published once, with the names of the members of the Board of Supervisors voting for
16 and against it, in the Chico Enterprise Record, a newspaper of general circulation published in
17 the County of Butte, State of California.

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20 PASSED AND ADOPTED by the Board of Supervisors of the County of Butte, State of
21 California, on the 27th day of March , 2012, by the following vote:

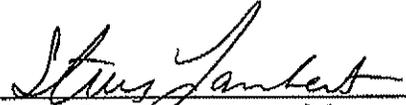
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23 AYES: Supervisors Connelly, Wahl, Kirk, Yamaguchi and Chair Lambert

24 NOES: None

1 ABSENT: None

2 NOT VOTING: None

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Steve Lambert, Chair of the
Butte County Board of Supervisors

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ATTEST:

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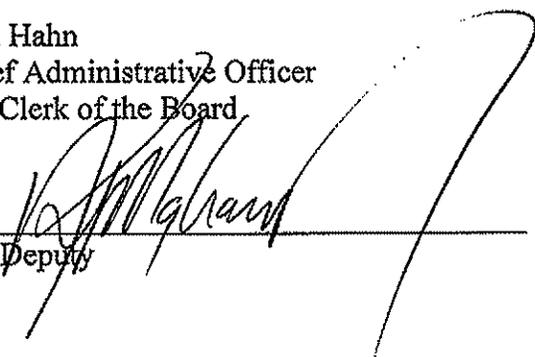
Paul Hahn
Chief Administrative Officer
and Clerk of the Board

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BY


Deputy

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