



ORDINANCE NO. 2010-006

**BOARD OF SUPERVISORS
COUNTY OF DEL NORTE, STATE OF CALIFORNIA**

**AN ORDINANCE OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS
AMENDING SECTION 12.080.010 and SECTION 20.48.070 OF THE DEL NORTE
COUNTY CODE RELATING TO LOCATION AND HEIGHT RESTRICTIONS AT COUNTY
INTERSECTIONS**

WHEREAS, fences and other obstructions that exist at intersections pose a threat to vehicle traffic and pedestrians as they can restrict sight distance clearance; and

WHEREAS, the Board of Supervisors finds that it is a safety hazard for owners of corner lots and other property located within County jurisdiction to maintain structures or vegetation which impair the visibility of vehicle operators and pedestrians; and

WHEREAS, the Board of Supervisors has determined that it is necessary to amend certain provisions the Del Norte County Code in order to adequately ensure the safety of the citizens of Del Norte County; and

WHEREAS, the following amendments clarify language in the Del Norte County Code regarding the height of fences, vegetation and other obstructions on corner lots.

NOW THEREFORE, the Board of Supervisors of the County of Del Norte do ordain as follows:

SECTION 1. Section 12.080.010 of Chapter 12.08, Title 12, of Del Norte County Code is amended to read as follows:

12.08.010 Location and height restrictions

Except as provided in this section, it is unlawful for the owner, lessee or occupant of any corner lot at a County maintained street or highway intersection to keep, maintain, or permit to be kept or maintained any structure or vegetation within a distance of thirty feet plus one-half of the right-of-way width of the adjacent street, road, or highway from the point of intersection of the roadway centerline at any intersection, whether between the curb line and property line or within the affected portion of the lot or premises. The area so defined is designated the sight-distance area. "Corner lot," as defined by section 20.04.470 of the Del Norte County Code, means a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides of street lines.

Except for trees, a structure or vegetation may be maintained within the sight-distance area only if the height of the structure or vegetation does not exceed three feet above the level of the street at the roadway centerline. Trees are permitted in the sight-distance area provided (1) that the main stocks or trunk are exposed to a height of eight feet above the street level at the roadway centerline and (2) that the trees do not constitute an obstruction to the view of the intersection to approaching vehicles or to persons. Notwithstanding anything in this section, the board of supervisors may hereafter by resolution determine that the trees at any intersection constitute a hazard and require removal. Fences free from vegetation which do not obstruct the vision of pedestrians or drivers of vehicles may be retained in the sight-distance

53 area if otherwise permitted by law. Other sight distance obstructions allowed are traffic control
54 devices, public utility poles, and places where contours of the ground allow no cross-visibility at
55 the intersection.

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57 The location and height restrictions are only applicable to land located outside of the boundary
58 of the California Coastal Zone. For location and height restrictions for fences, structures and
59 other obstructions located or proposed for corner lots located within the boundary of the
60 California Coastal Zone refer to Section 21.46.070 of Chapter 21.46, Title 21 of Del Norte
61 County Code.

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63 **SECTION 2.** Section 20.48.070 of Chapter 20.48, Title 20, of Del Norte County Code is
64 amended to read as follows:

65
66 20.48.070 Height restrictions.

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68 A. Chimneys, vents and other architectural or mechanical appurtenances, and towers, poles,
69 water tanks and similar structures may be erected to a greater height than the limit established
70 for the district in which they are to be located, subject to securing a use permit in each case.

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72 B. No fence, wall or hedge shall be constructed or grown to exceed four feet in height along
73 the front edge or sides of any required front yard of an interior lot (i.e. not a corner lot) or
74 eight feet in height along any side yard or rear yard of an interior lot (i.e. not a corner lot)
75 unless a use permit is first secured in each case. Refer to Section 12.080.010 of Chapter 12.08,
76 Title 12 of Del Norte County for height restrictions on corner lots.

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78 **SECTION 3.** Classification. This ordinance is considered of a general and permanent nature
79 and is classified as a codified ordinance.

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81 **SECTION 4.** If any part of this Ordinance or its application is deemed invalid by a court of
82 competent jurisdiction, the Board of Supervisors intends that such invalidity will not affect the
83 effectiveness of the remaining provisions or applications and, to this end, the provisions of this
84 Ordinance are severable.

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86 **SECTION 5.** This ordinance shall become effective 31 days following its final passage.

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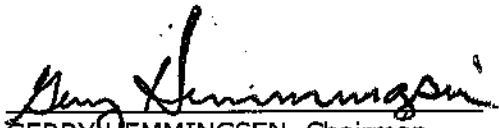
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PASSED AND ADOPTED this ^{25th} day of *May*, 2010 by the Board of Supervisors of the County of Del Norte by the following polled vote:

AYES: Supervisors McNamer, Sullivan, Hemmingsen

NOES: Supervisors McClure

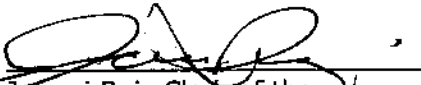
ABSENT: Supervisor Finigan

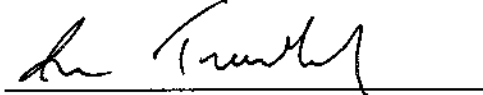

GERRY HEMMINGSEN, Chairman
Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

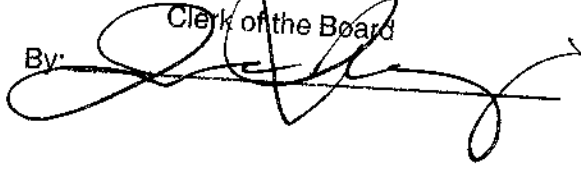
DOHN HENION, County Counsel


Jeremi Ruiz Clerk of the
Board of Supervisors, County
of Del Norte, State of California


IAN TRUEBLOOD, Deputy County Counsel

Date: 5-25-10

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

Clerk of the Board
By: 

Agent: None

APP# R1002

STAFF REPORT

APPLICANT: Del Norte County Planning Division

APPLYING FOR: Text Amendment to County Code – Title 20 and Title 12

AP#: Countywide

LOCATION: Countywide

PARCEL(S)
SIZE: N/A

EXISTING
USE: N/A

EXISTING
STRUCTURES: N/A

PLANNING AREA: Non-Coastal Countywide GENERAL PLAN: N/A

ADJ. GEN. PLAN: N/A

ZONING: N/A

ADJ. ZONING: N/A

1. PROCESSING CATEGORY:

NON-COASTAL X
NON-APPEALABLE COASTAL

APPEALABLE COASTAL
PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 4/6/10

HEALTH DEPT X
PLANNING X

BUILDING INSP X
ENGINEERING/SURVEYING X

ACCESS: N/A
TOPOGRAPHY: N/A

ADJ. USES: N/A
DRAINAGE: N/A

DATE OF COMPLETE APPLICATION: April 15, 2010

3. ERC RECOMMENDATION: Application complete. CEQA Section 15061(b)(3). Post public hearing notice. Approval with the Findings listed below:

4. STAFF RECOMMENDATION:

The Del Norte County Community Development Department (CDD) has filed an application to amend several sections of Del Norte County Code which relate to fences and other obstructions located on corner lots. The subject text amendments are a follow-up to an urgency ordinance that was adopted by the Board of Supervisors in May 2009 to address a growing concern for vehicle and pedestrian safety at road intersections where visual obstructions exists. Since the adoption of the ordinance several issues have arisen that warrant the consideration of further clarifications to the code sections. With the current interim ordinance in effect, the amendments do not require "urgency" status as the primary safety concerns are adequately addressed. Therefore, the proposed text amendments must be considered by the Planning Commission and the Board of Supervisors. Below is a summary of the May 2009 Board action followed by a summary of the proposed revisions.

Prior Project History

Fences and other obstructions that exist at intersections pose a threat to vehicular traffic and pedestrians when they restrict sight distance clearance. To remedy this potential hazard, Del Norte County Code had three separate code references regulating locations and heights of fences and obstructions. Unfortunately the code sections conflicted by describing two different processes for identifying the fence/obstruction location. County staff met with Counsel and ultimately drafted an urgency ordinance to remove the conflict. A copy of the adopted ordinance is attached as Exhibit A. The primary change was that all regulations for fences/obstruction on corner lots were removed from the zoning codes (Title 20 – non-Coastal and Title 21 – Coastal) and placed in Title 12 Roads Parks and Water Ways. Improvements were also made to Title 12 by eliminating the need for land surveys by utilizing the centerline of the intersections as measuring points for determining the outward limit of the fence/obstruction. The Engineering and Surveying Division, who drafted the language, has taken the responsibility of addressing fence/obstruction questions on corner lots outside of the Coastal Zone while the Planning Division continues to provide guidance on corner lots located within the Coastal Zone and all interior lots countywide.

Current Project Proposal

While the adopted urgency ordinance immediately became effective for land located outside of the Coastal Zone, the Title 21 – Coastal Zoning text amendment required approval by the California Coastal Commission as an amendment to the Implementation Plan (IP) of the County's Local Coastal Program. In June 2009, County staff submitted the text amendment to the Coastal Commission along with several other projects. A response to the submittal was received from Commission staff in January 2010 which outlined additional information required in order for the Commission to consider the amendment. In particular Commission staff raised two points:

- 1) the revised language leads the reader to interpret that all fence height restrictions are standardized with no difference specified for corner lots; and
- 2) no explanation is given on how coastal visual resources will be safeguarded from impacts related to the proposed setback amendment (i.e. existing language allows a maximum fence/obstruction height of 3 feet within **50** feet of intersection while the proposed language allows a maximum fence/obstruction height of 3 feet within **30** feet intersection leaving a 20 foot difference in which fences may exceed 3 feet in height and therefore obstruct coastal views).

Staff agreed that the revised zoning text is misleading. The same misleading text also occurs in Title 20 (non-Coastal Zoning). A reference to the Title 12 code section within the zoning text would satisfy this point as it would direct readers to the appropriate code section that regulates fences and other obstructions on corner lots. More difficult to address is the potential impact on visual impacts since fencing less than 6 feet in height typically does not require a building permit. A new permit or some other review mechanism would be needed for fencing/obstructions within the jurisdiction of the Coastal Zone to allow staff the ability to visit each site and determine if the fence/obstruction would result in an impact to coastal resources. At staff's request, the Board of Supervisors rescinded the County's coastal text amendment application at its April 13, 2010 meeting thereby determining that fencing and other obstructions on corner lots within the Coastal Zone would continue be regulated by Section 21.46.070 which is administered by the Planning Division.

During this same meeting staff notified the Board that the subject text amendment would be pursued with the Planning Commission in order to amend Title 20 (non-Coastal Zoning) to clarify that corner lot

restrictions are addressed in Title 12, simplify the language in Title 12 for calculating where height restrictions apply and to make clear that corner lots within the Coastal Zone are subject to the height and location restrictions listed in Section 21.46.070 of the Coastal Zoning Code (Title 21) and those regulations listed in Section 12.08.010. As such, Exhibit B identifies the proposed changes which will be placed. Language to be deleted is shown with a strikethrough (ex. ~~x~~) and new language is shown with a double underline (ex. x). Staff finds that the proposed changes will provide greater clarification to the public and staff when interpreting the codes.

Environmental Determination

The County Environmental Review Committee has reviewed the project and determined that the project is not subject to the California Environmental Quality Act under section 15061(b)(3) (the general rule exemption) as it can be seen with certainty that there is no possibility that the activity in question may have a significant impact on the environment.

Recommendation

Staff recommends that Planning Commission adopt the findings and forward a recommendation of approval of the text amendments to the Board of Supervisors.

5. FINDINGS:

- A. The project is consistent with the policies and standards of the General Plan and Title 20 Zoning;
- B. The project is exempt from the California Environmental Quality Act (Section 15061(b)(3));
and
- C. The Amendment clarifies language in Del Norte County Code regarding the height of fences, vegetation and other obstructions on corner lots.

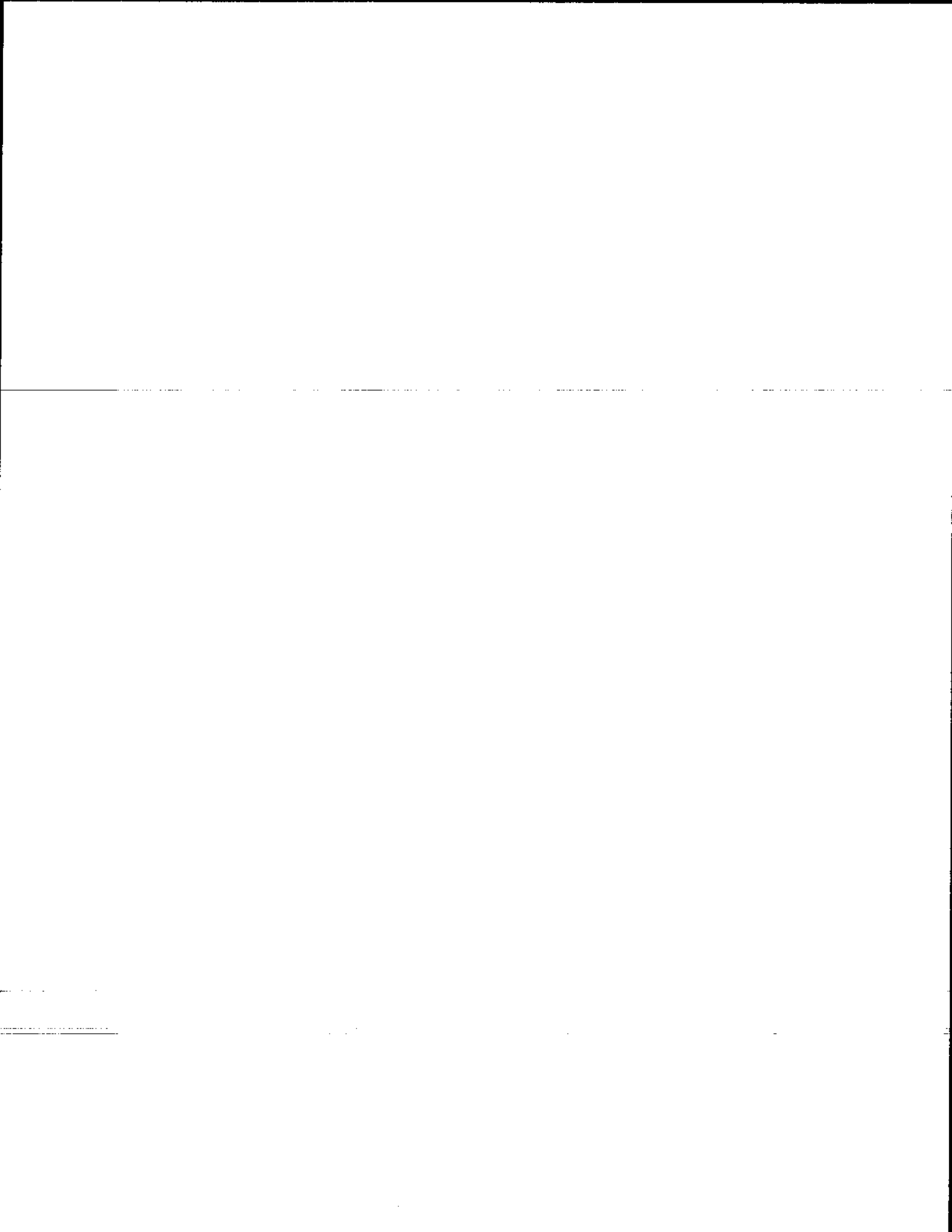




EXHIBIT A

ORDINANCE NO. 2009-011

BOARD OF SUPERVISORS COUNTY OF DEL NORTE, STATE OF CALIFORNIA

AN ORDINANCE OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS AMENDING SECTION 21.46.070 OF THE DEL NORTE COUNTY CODE RELATING TO LOCATION AND HEIGHT RESTRICTIONS AT COUNTY INTERSECTIONS IN THE COASTAL ZONE

The Board of Supervisors of the County of Del Norte do ordain as follows:

SECTION 1. Section 21.46.070 of Chapter 21.46, Title 21, of Del Norte County Code is amended to read as follows:

21.46.070 Height restrictions.

A. Chimneys, vents and other architectural or mechanical appurtenances, and towers, poles, water tanks and similar structures may be erected to a greater height than the limit established for the district in which they are to be located, subject to securing a use permit in each case.

B. No fence, wall or hedge shall be constructed or grown to exceed four feet in height along the front edge or sides of any required front yard or eight feet in height along any side yard or rear yard unless a use permit is first secured in each case.

SECTION 2. Classification. This ordinance is considered of a general and permanent nature and is classified as a codified ordinance.

SECTION 3. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the Board of Supervisors intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

51 **SECTION 4.** This ordinance shall become effective 31 days following its final passage
52 and adoption and after approval of the amendment by the Coastal Commission,
53 whichever is later.


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55 PASSED AND ADOPTED this 9 day of June, 2009 by the Board of
56 Supervisors of the County of Del Norte by the following polled vote:

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58 AYES: Supervisors McNamer, Sullivan, Finigan, McClure, Hemmingsen

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60 NOES: None

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62 ABSENT: None

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GERRY HEMMINGSEN, Chairman
Board of Supervisors

APPROVED AS TO FORM:

DOHN HENION, County Counsel

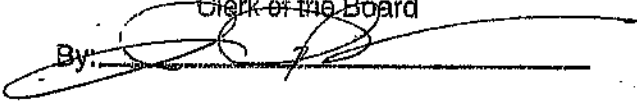

John T. Seyman, Deputy

ATTEST:


Jeremi Ruiz Clerk of the
Board of Supervisors, County
of Del Norte, State of California

Date: 6-9-09

I hereby certify that according to the
provisions of Government Code
Section 25103, delivery of this
document has been made.

Clerk of the Board
By: 



ORDINANCE NO. 2009-013

**BOARD OF SUPERVISORS
COUNTY OF DEL NORTE, STATE OF CALIFORNIA**

**AN URGENCY ORDINANCE OF THE DEL NORTE COUNTY
BOARD OF SUPERVISORS
AMENDING SECTION 12.080.010, REPEALING SECTION 12.09.010 AND
CHAPTER 20.49, AND AMENDING SECTION 20.48.070 OF THE DEL NORTE
COUNTY CODE RELATING TO LOCATION AND HEIGHT RESTRICTIONS AT
COUNTY INTERSECTIONS**

The Board of Supervisors of the County of Del Norte do ordain as follows:

SECTION 1. The Board of Supervisors finds that the following facts constitute an urgent condition providing adequate grounds to adopt this ordinance on an urgency basis pursuant to California Government Code sections 25123 and 65858:

1. During the last twelve months, the Del Norte County Department of Community Development ("CDD") has undertaken extensive studies with regard to traffic safety throughout the County, especially in the Filkins Tract area.
2. The CDD studies have shown that there are sight obstructions at many street intersections.
3. The intersection sight obstructions include both vegetation (shrubs and trees) and structures (usually fences).
4. These obstructions have been and continue to be serious road traffic hazards.
5. The County of Del Norte recently adopted by ordinance new procedural code enforcement standards so that CDD can expeditiously and lawfully administer County zoning standards with respect to the sight obstructions at County intersections.
6. The current County zoning standards with respect to the sight obstructions at County intersections date back to 1955. They are problematic to enforce because they are based upon property boundary descriptions, which can vary from parcel to parcel and which are not ascertained by mere observation.
7. The County zoning standards adopted pursuant to this ordinance correct the enforcement concerns by providing clear standards that are readily determined by reference to the centerline of the adjacent street.
8. The serious road traffic hazards at certain intersections in the County place the public, both pedestrians and motor vehicle operators, at a serious risk of injury from motor vehicle accidents.
9. By adopting this ordinance on an urgency basis, the CDD will be able to take immediate action to begin enforcement of the new zoning standards

49 and thereby will promote the health, safety, and welfare of the citizenry of
50 the County of Del Norte.

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52 **SECTION 2.** Based upon the foregoing findings in Section 1 of this Ordinance, the Del
53 Norte County Board of Supervisors further finds and declares (1) that there is a current
54 and immediate threat to the public health, safety, and welfare, (2) that the current use
55 entitlements relating to visibility at County intersections result in that threat to public
56 health, safety, and welfare, and (3) that the new zoning standards adopted pursuant to
57 this Ordinance provide the most effective and expeditious means of protecting the
58 public and eliminating the threat to their health, safety, and welfare.

59
60 **SECTION 3.** Section 12.080.010 of Chapter 12.08, Title 12, of Del Norte County Code
61 is amended to read as follows:

62
63 12.08.010 Location and height restrictions

64
65 Except as provided in this section, it is unlawful for the owner, lessee or occupant of
66 any corner lot at a County maintained street or highway intersection to keep, maintain,
67 or permit to be kept or maintained any structure or vegetation within a distance of
68 thirty feet plus one-half of the right-of-way width of the adjacent street, road, or
69 highway from the point of intersection of the roadway centerline at any intersection,
70 whether between the curb line and property line or within the affected portion of the lot
71 or premises. The area so defined is designated the sight-distance area.

72
73 Except for trees, a structure or vegetation may be maintained within the sight-distance
74 area only if the height of the structure or vegetation does not exceed three feet above
75 the level of the street at the roadway centerline. Trees are permitted in the sight-
76 distance area provided (1) that the main stocks or trunk are exposed to a height of
77 eight feet above the street level at the roadway centerline and (2) that the trees do not
78 constitute an obstruction to the view of the intersection to approaching vehicles or to
79 persons. Notwithstanding anything in this section, the board of supervisors may
80 hereafter by resolution determine that the trees at any intersection constitute a hazard
81 and require removal. Fences free from vegetation which do not obstruct the vision of
82 pedestrians or drivers of vehicles may be retained in the sight-distance area if otherwise
83 permitted by law. Other sight distance obstructions allowed are traffic control devices,
84 public utility poles, and places where contours of the ground allow no cross-visibility at
85 the intersection.

86
87 **SECTION 4.** Chapter 12.09, Title 12, of Chapter Del Norte County Code is hereby
88 repealed in its entirety.

89
90 **SECTION 5.** Section 20.48.070 of Chapter 20.48, Title 20, of Del Norte County Code is
91 amended to read as follows:

92
93 20.48.070 Height restrictions.

94
95 A. Chimneys, vents, and other architectural or mechanical appurtenances, and towers,
96 poles, water tanks and similar structures may be erected to a greater height than the

97 limit established for the district in which they are to be located, subject to securing a
98 use permit in each case.

99
100 B. No fence, wall or hedge shall be constructed or grown to exceed four feet in height
101 along the front edge or sides any required front yard or eight feet in height along any
102 side yard or rear yard unless a use permit is first secured in each case.

103
104 **SECTION 6.** Chapter 20.49, Title 20, of the Del Norte County Code is hereby repealed
105 in its entirety.

106
107 **SECTION 7.** Classification. This ordinance is considered of an urgent nature and is
108 classified as a codified ordinance.

109
110 **SECTION 8.** ~~If any part of this Ordinance or its application is deemed invalid by a court~~
111 ~~of competent jurisdiction, the Board of Supervisors intends that such invalidity will not~~
112 ~~affect the effectiveness of the remaining provisions or applications and, to this end, the~~
113 ~~provisions of this Ordinance are severable.~~

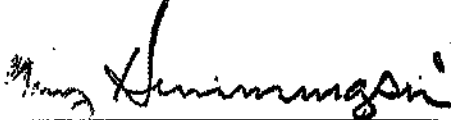
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115 **SECTION 8.** This ordinance shall become effective immediately upon passage and
116 adoption and shall be of no further force and effect 45 days from the date of its
117 adoption unless the Board of Supervisors acts within those 45 days to extend the
118 effective date.

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123 PASSED AND ADOPTED this 26th day of May, 2009 by the Board of Supervisors
124 of the County of Del Norte by the following polled vote:

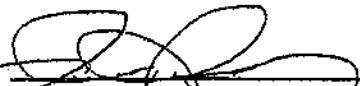
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126 AYES: Supervisors McNamer, Finigan, McClure, Sullivan, Hemmingsen

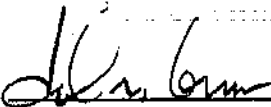
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128 NOES: None

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130 ABSENT: None

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135 GERRY HEMMINGSEN, Chairman
136 Board of Supervisors

137 ATTEST: APPROVED AS TO FORM:

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140 
141 Jeremi Ruiz Clerk of the
142 Board of Supervisors, County
143 of Del Norte, State of California


DOHN HENION, County Counsel 5-26-09
Date: _____

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.



Clerk of the Board

EXHIBIT B

Proposed Changes

1) Addition to Title 20 Zoning

Chapter 20.48 General Provisions

20.48.07 Height restrictions.

A. Chimneys, vents and other architectural or mechanical appurtenances, and towers, poles, water tanks and similar structures may be erected to a greater height than the limit established for the district in which they are to be located, subject to securing a use permit in each case.

B. No fence, wall or hedge shall be constructed or grown to exceed four feet in height along the front edge or sides of any required front yard of an interior lot (i.e. not a corner lot) or eight feet in height along any side yard or rear yard of an interior lot (i.e. not a corner lot) unless a use permit is first secured in each case. Refer to Section 12.080.010 of Chapter 12.08, Title 12 of Del Norte County for height restrictions on corner lots.

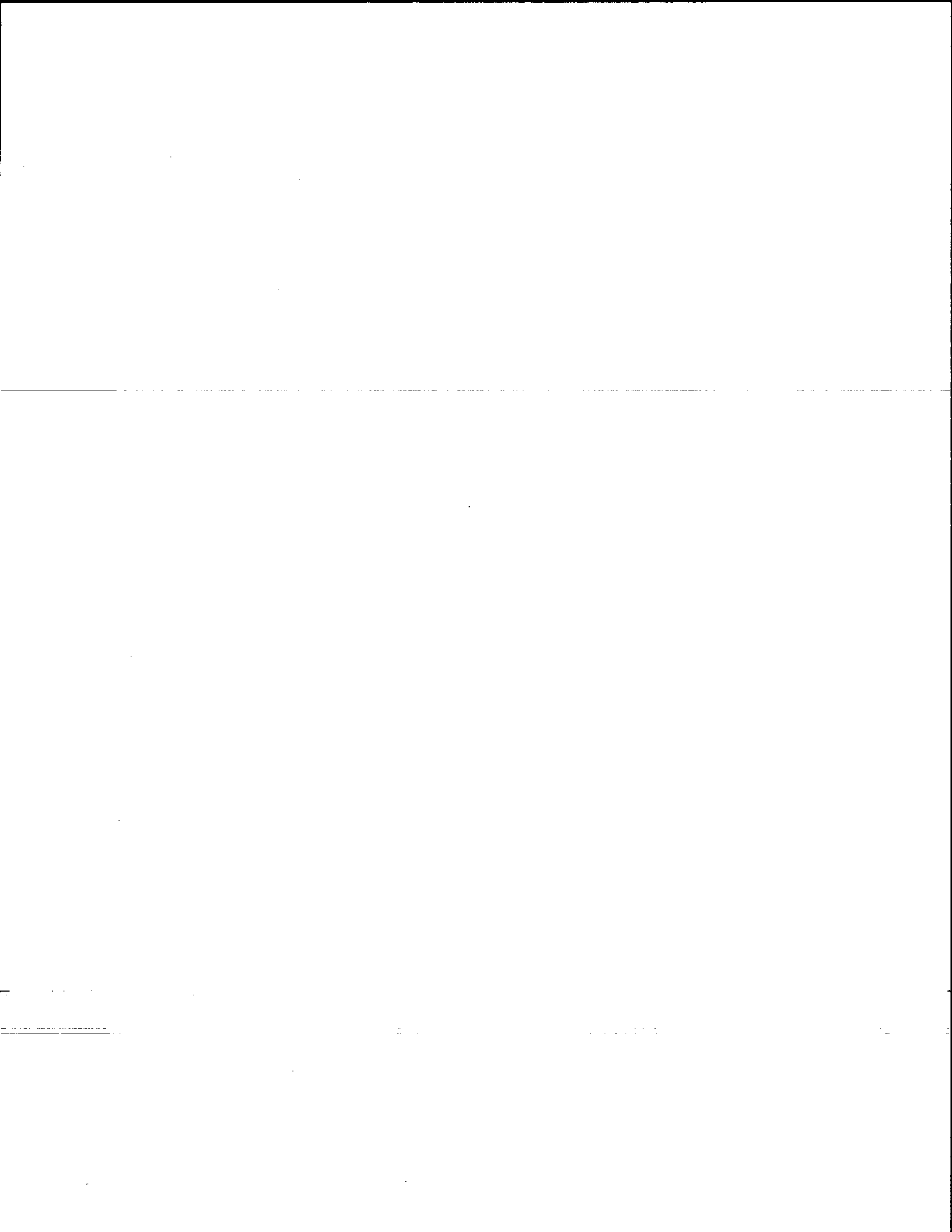
2) Deletion and Addition to Title 12 Roads Parks and Waterways

Chapter 12.08 Tree, Fence, and Shrub

Section 12.08.010 Locations and height restrictions

Except as provided in this section, it is unlawful for the owner, lessee or occupant of any corner lot at a County maintained street or highway intersection to keep, maintain, or permit to be kept or maintained any structure or vegetation within a distance of thirty feet plus one-half of the right-of-way width of the adjacent street, road, or highway in each direction, measured from the point of intersection of the roadway centerline at any intersection, whether between the curb line and property line or and along the adjacent right-of-way (property) lines within the affected portion of the lot or premises: that are, within "sight distance area" created within the lot or premises by the triangle created by connecting the endpoints of the lines, measured thirty feet in each direction, from the point of intersection of and along the adjacent right-of-way (property lines). The area so defined is designated the sight distance area.

Except for trees, a structure or vegetation may be maintained within the sight-distance area only if the height of the structure or vegetation does not exceed three feet above the level of the street at the roadway centerline. Trees are permitted in the sight-distance area provided that: (1) the main stocks or trunk are exposed and free from limbs to a height of eight feet above the street level at the roadway centerline and (2) that the trees do not constitute an obstruction to the view of the intersection to approaching vehicle operators or to persons pedestrians. Notwithstanding anything in this section, the board of supervisors may hereafter by resolution determine that the trees at any intersection constitute a public safety hazard and require removal. Fences free from vegetation which do not obstruct the vision of pedestrians or drivers of vehicles vehicle operators or



pedestrians may be retained in the sight-distance area if otherwise permitted by law. Other sight distance obstructions allowed are traffic control devices, public utility poles, and places where contours of the ground allow no cross-visibility at the intersection. Also excepted are existing buildings within the sight distance area.

The location and height restrictions are only applicable to land located outside of the boundary of the California Coastal Zone. For location and height restrictions for fences, structures and other obstructions located or proposed for corner lots located within the boundary of the California Coastal Zone refer to Section 21.46.070 of Chapter 21.46, Title 21 of Del Norte County Code.

