



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

9/11/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Coos Bay Plan Amendment
DLCD File Number 002-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, September 23, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Laura Barron, City of Coos Bay
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Chris Shirley, FEMA Specialist

<paa> YA

FORM 2

DLCD

Notice of Adoption

In person electronic mailed

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DEPT OF

SEP 03 2009

**LAND CONSERVATION
AND DEVELOPMENT**
For DLCD Use Only

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: *City of Coos Bay*
 Date of Adoption: *9-01-09*

Local file number: *ZON2009-00030*
 Date Mailed: *9-2-09*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: *4-08-09*

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend code in order to comply with Code of Federal Regulations. This amendment is required in order to maintain eligibility in the National Flood Insurance Program (NFIP).

Does the Adoption differ from proposal? Please select one

Same-

Plan Map Changed from: _____ to: *NA*

Zone Map Changed from: *NA* to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. 002-09 (17497) [15702]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

FEMA, Coos Co., North Bend

Local Contact: *Laura Barron*

Phone: *(541) 269-8918* Extension:

Address: *500 Central Ave*

Fax Number: *541-269-8916*

City: *Coos Bay* Zip: *97420*

E-mail Address: *lbarron@coosbay.org*

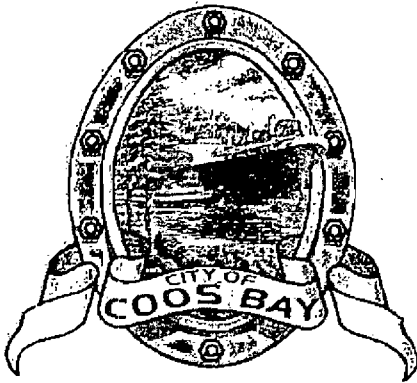
ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.



City of Coos Bay

Public Works & Development Dept.

500 Central Ave., Coos Bay, Oregon 97420
Phone (541) 269-8918 Fax (541) 269-8916

FINAL ORDER NOTICE OF CITY COUNCIL DECISION AND ORDER

- APPLICATION:** AMENDMENTS TO TEXT OF COOS BAY MUNICIPAL CODE
CHAPTER 17.195, FLOOD DAMAGE PREVENTION (ZON2009-00030)
- APPLICANT:** City of Coos Bay, 500 Central Ave, Coos Bay, OR 97420
- PROPOSAL:** Amend text to comply with requirements of the Code of Federal Regulations to maintain eligibility in the National Flood Insurance Program, adopt FEMA maps using updated technology and the Flood Insurance Study effective September 25, 2009.
- ORDER:** Tuesday, September 1, 2009, City Council approved text amendments to the Code enacted Ordinance No. 418
City Council Final Vote:
Yea: Mayor Jeff McKeown, Councilors Gene Melton, Joanie Johnson, Mark Daily, Jon Eck, John Pundt and Stephanie Kramer
Nay: **Abstain:** None
- APPEAL PROVISIONS:** See page 2.
- DECISION CRITERIA AND THE ADOPTED FINDINGS OF FACT, AND CONCLUSIONS:**
See page 3.

FINAL ACTION

Based on the adopted Findings and Conclusions at Exhibit A, the City Council enacted Ordinance 418 amending Coos Bay Municipal Code Chapter 17.195, Flood Damage Prevention, which included FEMA maps using updated technology and the Flood Insurance Study effective September 25, 2009.

The decision to approve the amendments will become final at **5:00 P.M. on September 24, 2009** unless an appeal is filed.

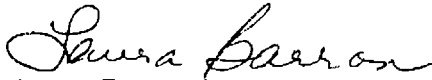
APPEAL PROVISION

Any person with standing has the right to request review of this land use decision by filing a Notice of Intent to Appeal with:

Oregon Land Use Board of Appeals
Public Utility Commission Bldg.
550 Capitol St.
Salem, OR 97310

Notice of Intent to Appeal must be filed no later than 21 days from the date of mailing of this decision. Therefore, **appeals must be filed no later than September 24, 2009.** Notice of Intent to Appeal must be filed and served in accordance with the Oregon Land Use Board of Appeals Rules of Procedure.

Sincerely,
CITY OF COOS BAY



Laura Barron
Planning Administrator

Sept. 2, 2009

Attachments: Ordinance 418

c: Dave Perry, DLCD
Christine Shirley, DLCD
Denise Atkinson, FEMA Region X

EXHIBIT A

REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

DECISION CRITERIA

The Planning Commission will make a recommendation to the City Council based on the findings and conclusions which address the following criteria from Coos Bay Municipal Code Chapter 17.380:

1. An acceptable rationale which supports the need for the amendment; and
2. The amendment complies with the applicable provisions of the comprehensive plan.

FINDINGS

1. Statewide Planning Goal 7, Areas Subject to Natural Hazards, requires local governments to adopt and implement local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.
2. The purpose of the NFIP is not to prohibit floodplain development, but to guide development in floodplain areas in such a way as to greatly lessen the economic loss and social disruption caused by impending flood events. Federal flood insurance is only available in those communities that participate in the NFIP and flood insurance is required for the following: federally-backed loans to purchase or build structures located in any special flood hazard area; lending institutions federally regulated; the loan will be sold on the secondary market to a government sponsored enterprise. This comprises well over 95% of all mortgage loans made each year ("Floodplain Management," FEMA, 2000).
3. Comprehensive Plan, Volume 1, 7.1, Natural Resources and Hazards:

NRH.5 Coos Bay shall continue to participate in the National Flood Insurance Program of the U.S. Department of Housing and Urban Development, recognizing that participation in this program substantially insures the health and well being of its residents and allow city residents to benefit from subsidized flood insurance rates.

CONCLUSION

The proposed updates to the Coos Bay Municipal Code Chapter 17.195, including the maps adopted by reference, at Exhibit A, will bring the City into compliance with the requirements of the National Flood Insurance Act of 1968 and continue eligibility in the National Flood Insurance Program. The decision criteria have been satisfied.

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ORDINANCE NO. 418

AN ORDINANCE OF THE CITY OF COOS BAY REPEALING CHAPTER 17.195 OF THE COOS BAY MUNICIPAL CODE, "FLOOD DAMAGE PREVENTION," IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 17.195, "FLOOD DAMAGE PREVENTION."

WHEREAS, the Federal Emergency Management Agency (FEMA) has issued a preliminary "Flood Insurance Study for Coos County, Oregon and Incorporated Areas," along with Federal Insurance Rate Maps (FIRMs), which will become effective on September 25, 2009;

WHEREAS, the City must adopt the 2009 study and maps in order to remain eligible for the National Flood Insurance Program;

WHEREAS, notice that public hearing would be held before the city of Coos Bay Planning Commission (the Commission) on June 9, 2009 and public hearing would be held before the Coos Bay City Council on September 1, 2009 was published in "The World," a newspaper of general circulation within Coos County, Oregon, on May 26, 2009;

WHEREAS, notice of the public hearings was mailed on May 19, 2009 to all landowners with property in the floodplain;

WHEREAS, provisions in the Coos Bay Municipal Code (CBMC) relating to notice have been complied with;

WHEREAS, public hearing was held on June 9, 2009, and after receiving evidence and hearing testimony, the Commission recommended approval of the changes; and,

WHEREAS, the Commission's Findings and Justifications supporting its recommended approval are attached hereto as "Exhibit A" and incorporated herein by reference.

NOW THEREFORE, the City of Coos Bay City Council ordains as follows:

Section 1. Repeal. There is hereby repealed in its entirety Title 17, Chapter 17.195, "Flood Damage Prevention."

Section 2. Chapter. A new chapter, Chapter 17.195, "Flood Damage Prevention," consisting of 20 sections, is hereby added to the CBMC to read as follows:

Sections:

- 17.195.010 General.
- 17.195.020 Authorization.
- 17.195.030 Findings of Fact.
- 17.195.040 Statement of Purpose.
- 17.195.050 Methods of reducing flood losses.
- 17.195.060 Definitions.
- 17.195.070 Lands to which this Ordinance applies.
- 17.195.080 Basis for establishing the areas of special flood hazard.

- 17.195.090 Abrogation and greater restrictions.
- 17.195.100 Interpretation and Severability.
- 17.195.110 Warning and Disclaimer of Liability.
- 17.195.120 Alteration of watercourses.
- 17.195.130 Special flood hazard areas.
- 17.195.140 Development permit required, obtaining and maintaining information.
- 17.195.150 Review of development permits.
- 17.195.160 Provisions for flood hazard reduction.
- 17.195.170 Below-grade crawlspaces
- 17.195.180 Critical facility.
- 17.195.190 Land division, manufactured home parks and planned unit development.
- 17.195.200 Standards for storage of materials and equipment.

Section 3. New Chapter. A new chapter entitled, "Flood Damage Prevention," is hereby added to the CBMC to read as follows:

Section 4. New Section 17.195.010 of the CBMC is hereby added to read as follows:

17.195.010 General.

- (1) Areas within the City of Coos Bay have been subject to periodic flooding and the City is a participating community in the National Flood Insurance Program. Therefore, the City must adopt land use control measures to reduce flood hazard and assure that City residents will continue to benefit from the national program.
- (2) As part of this program, the city shall:
 - (a) Review all development permits to determine that all necessary federal, state, or local governmental agency permits have been obtained which require prior approval;
 - (b) Review all development permits to determine that the permit requirements and conditions of this ordinance have been satisfied;
 - (c) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new structures, substantially improved structures, or substantially improved floodproofed structures, and whether or not the structure contains a basement; and
 - (d) Maintain floodproofing certification required by CBMC 17.195.160(2)(b). [Ord. 354, 2004; Ord. 134, 1, 1989; Ord 93, 3.14.1, 1987].

Section 5. New Section 17.195.020 of the CBMC is hereby added to read as follows:

17.195.020 Authorization.

The State of Oregon has, in Oregon Revised Statute 203.035, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Coos Bay, does ordain as follows:

Section 6. New Section 17.195.030 of the CBMC is hereby added to read as follows:

17.195.030 Findings of Fact.

- (1) The flood hazard areas of the City of Coos Bay are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

Section 7. New Section 17.195.040 of the CBMC is hereby added to read as follows:

17.195.040 Statement of purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard;
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and,
- (9) To maintain eligibility for disaster relief.

Section 8. New Section 17.195.050 of the CBMC is hereby added to read as follows:

17.195.050 Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage;

- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas; and,
- (6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

Section 9. New Section 17.195.060 of the CBMC is hereby added to read as follows:

17.195.060 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application. Some of the definitions below are repeated from Section 17.10.

Appeal means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of Special Flood Hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Below-grade Crawl Space means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

Critical Facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

Elevated Building means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Existing Manufactured Home Park or Subdivision means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

Expansion to an Existing Manufactured Home Park or Subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Insurance Rate Map (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood Insurance Study means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Grade (adjacent ground level) means the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet from the wall. If walls are parallel to and within five feet of a public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley or public way. For the NFIP, the lowest adjacent grade is the lowest point of the ground level next to the building.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at 17.195.160(2)(a)(ii).

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

New Manufactured Home Park or Subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

Recreational Vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and,
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

State Building Code means the combined specialty codes.

Structure means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Variance means a grant of relief from the requirements of this ordinance which permits

construction in a manner that would otherwise be prohibited by this ordinance.

Water Dependent means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

Section 10. New Section 17.195.070 of the CBMC is hereby added to read as follows:

17.195.070 General Provisions – Lands to which this Ordinance applies.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of Coos Bay.

Section 11. New Section 17.195.080 of the CBMC is hereby added to read as follows:

17.195.080 Basis for establishing the areas of special flood hazard.

- (1) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Coos County, Oregon and Incorporated Areas," dated September 25, 2009, and accompanying Flood Insurance Rate Maps (FIRMs), are hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study and the FIRMs are on file at 500 Central Avenue, Coos Bay, Oregon 97420. The best available information for flood hazard area identification as outlined in subsection (2) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under subsection (2).
- (2) When base flood elevation data described in subsection (1) of this section has not been provided, the local administrator, the Public Works Director, shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source to administer CBMC 17.195.130 and 17.195.160(2).
- (3) The City shall make an interpretation where needed, as to the exact location of FIRM boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulation of the National Flood Insurance Program (44 CFR 59-76). [ORD. 354 6/1/2004]

Section 12. New Section 17.195.090 of the CBMC is hereby added to read as follows:

17.195.090 Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 13. New Section 17.195.100 of the CBMC is hereby added to read as follows:

17.195.100 Interpretation and Severability.

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes and rules including the state building code.

Severability. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 14. New Section 17.195.110 of the CBMC is hereby added to read as follows:

17.195.110 Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Coos Bay, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 15. New Section 17.195.120 of the CBMC is hereby added to read as follows:

17.195.120 Alteration of watercourses.

Adjacent jurisdictions, and the Department of Land Conservation and Development, and other appropriate state and federal agencies shall be notified prior to any alteration or relocation of a watercourse subject to flood hazard, and the city shall submit evidence of such notification to the Federal Insurance Administration. Maintenance shall be required within the altered or relocated portion of the watercourse so that its flood-carrying capacity is not diminished.

Section 16. New Section 17.195.130 of the CBMC is hereby added to read as follows:

17.195.130 Special Flood Hazard Areas.

- (1) In special flood hazard areas, where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within Zones A and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (2) Located within areas of special flood hazard are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. Therefore, encroachments into the floodway, including fill, new construction, substantial improvement, and other development, shall be prohibited, unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- (3) If the requirement of subsection (1) or (2) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable provisions of CBMC 17.195.160, Provisions for flood hazard reduction.
- (4) Projects for stream habitat restoration may be permitted in the floodway provided:
 - (a) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,
 - (b) A qualified professional (a Registered Professional Engineer; or staff of NRCS, the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 - (c) No structures would be impacted by a potential rise in flood elevation; and,
 - (d) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
- (5) New installation of manufactured dwellings are prohibited (2002 Oregon Manufactured Dwelling and park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:
 - (a) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation and the continued use is not a threat to life, health, property, or the general public; or
 - (b) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:
 - (i) As required by 44CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
 - (ii) The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map;
 - (iii) The replacement manufactured home is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;
 - (iv) The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;
 - (v) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and,
 - (vi) Any other requirements deemed necessary by the authority having jurisdiction.

Section 17. New Section 17.195.140 of the CBMC is hereby added to read as follows:

17.195.140 Development permit required, obtaining and maintaining information.

- (1) A development permit shall be obtained before construction, including substantial improvements, or development begins within any area of special flood hazard established in CBMC 17.195.080. The permit shall be for all structures, including manufactured homes, and for all development including fill and other activities, as set forth in CBMC 17.10.010 and 17.195.060.
- (2) Application for Development Permit. Application for a development permit shall be made on forms furnished by the Public Works and Development Department and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 - (a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
 - (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in 17.195.160(2)(b); and
 - (d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- (3) Information to be Obtained and Maintained.
 - (a) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in CBMC 17.195.080(2), obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - (b) For all new or substantially improved floodproofed structures where elevation data is provided through the Flood Insurance Study, FIRM, or as required in CBMC 17.195.080(2):
 - (i) Obtain and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed, and
 - (ii) Maintain the floodproofing certifications required in subsection 2 of this section.
 - (c) Maintain for public inspection all records pertaining to the provisions of this ordinance.

Section 18. New Section 17.195.150 of the CBMC is hereby added to read as follows:

17.195.150 Review of Development Permits.

The Public Works and Development Director is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. The duties shall include, but not be limited to:

- (1) Review all development permits to determine that the permit requirements and conditions of this ordinance have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 17.195.130(2) are met.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, CBMC 17.195.080(2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historic data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two (2) feet above the highest adjacent grade in these zones may result in higher insurance rates.

Section 19. New Section 17.195.160 of the CBMC is hereby added to read as follows:

17.195.160 Provisions for flood hazard reduction.

Substantial improvements to existing structures located at or below the base flood elevation and all new construction shall conform to the following standards. The building official and/or Public Works and Development Department shall be responsible to review plans and inspect construction to determine that it is reasonably safe from flooding and complies with provisions of the International Code Council (ICC).

- (1) General Standards. In all areas of special flood hazards, the following standards are required:
 - (a) Anchoring.
 - (i) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure; and
 - (ii) All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
 - (b) Construction Materials and Methods.
 - (i) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
 - (ii) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and
 - (iii) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (c) Utilities.
 - (i) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - (ii) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
 - (iii) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.
 - (d) Subdivision proposals.
 - (i) All subdivision proposals shall be consistent with the need to minimize flood damage;

- (ii) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
 - (iii) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - (iv) Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).
- (2) Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in CBMC 17.195.080(1) or (2), the following provisions are required.
- (a) Residential Construction.
 - (i) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation.
 - (ii) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (A) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (B) The bottoms of all openings shall be no higher than one foot above grade.
 - (C) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (b) Non-residential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure (including a detached garage) shall either have the lowest floor, including basement, elevated at or above the base flood elevation, or together with attendant utility and sanitary facilities, shall:
 - (i) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - (iii) Be certified by a registered engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based upon their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the City as set forth in CBMC 17.195.010(2)(d);
 - (iv) Nonresidential structures which are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (2)(a)(ii); and,
 - (v) Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below the base flood level).
 - (c) Manufactured Homes.

- (i) Manufactured homes shall be elevated on a permanent foundation such that the finished floor of the manufactured home is elevated a minimum of 18 inches (46 cm) above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement when the home is to be located or substantially improved on sites:
 - (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 which a manufactured home has incurred "substantial damage" as the result of a flood.
- (ii). Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of (i) above, be elevated so that either:
 - (A) The finished floor of the manufactured home is elevated a minimum of 18 inches (46 cm) above the base flood elevation, or
 - (B) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (d) Recreational Vehicles. Recreational vehicles placed on sites are required to either:
 - (i) Occupy the site for less than 180 consecutive days; or
 - (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
 - (iii) Meet the requirements of subsection (2)(c) of this section, and the elevation and anchoring requirements for manufactured homes.

Section 20. New Section 17.195.170 of the CBMC is hereby added to read as follows:

17.195.170 Below-grade crawlspaces.

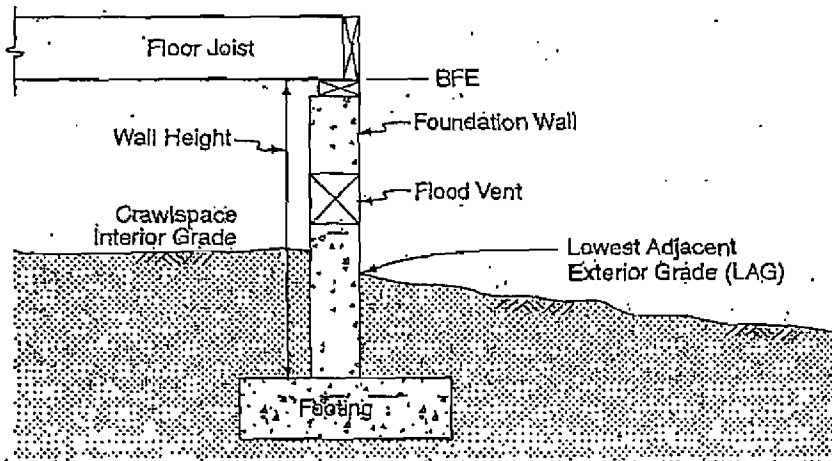
Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawlspaces Construction for Buildings Located in Special Flood Hazard Areas:

- (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in (2) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (2) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- (3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to

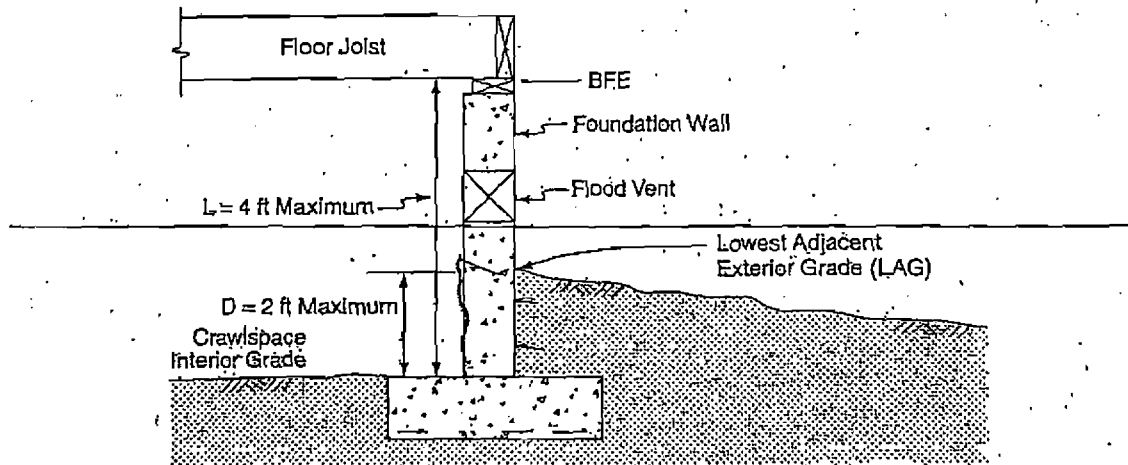
elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

- (4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (5) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- (6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
- (8) The velocity of floodwaters at the site must not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types shall be used.
- (9) There is an increased insurance cost associated with below-grade crawlspaces.

Below are diagrams from FEMA Technical Bulletin 11-01.



* Preferred crawlspace construction



* Requirements regarding below-grade crawlspace construction

* For residential structures, State Building Code requires the lowest floor to be elevated a minimum of one (1) foot (18 inches for manufactured homes) above BFE.

Section 21. New Section 17.195.180 of the CBMC is hereby added to read as follows:

17.195.180 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Section 22. New Section 17.195.190 of the CBMC is hereby added to read as follows:

17.195.190 Land division, manufactured home parks and planned unit development.

All development proposals for land division, manufactured home parks, and planned unit developments shall be consistent with the need to minimize flood damage; shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; shall have adequate drainage provided to reduce exposure to flood damage; and where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for those development proposals which contain at least 50 lots or spaces, or 5 acres (whichever is less).

Section 23. New Section 17.195.200 of the CBMC is hereby added to read as follows:

17.195.200 Standards for storage of materials and equipment.

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

Section 24. The City Council of the City of Coos Bay, after considering the Commission's Findings and Justification hereby adopts the Findings and Justifications, and finds the proposed changes should be granted.

Section 25. The sections and subsections of this Ordinance are severable. The invalidity of one section or subsection shall not affect the validity of the remaining sections or subsections.

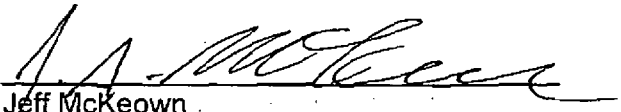
Section 26. Emergency. The City Council of the City of Coos Bay finds that the health, safety and welfare of the City of Coos Bay requires this ordinance to have immediate effect. Therefore, the City Council hereby declares the existence of an emergency and this ordinance shall be in full force and effect from the time of its passage and approval.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay the 1st day of September 2009.


Yes: Mayor Jeff McKeown and Councilors Mark Daily, Jon Eck, Joanie Johnson, Stephanie Kramer, Gene Melton, and John Pundt.

No: None

Absent: None


Jeff McKeown
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:



Rae Lea Cousens
Recorder of the City of Coos Bay
Coos County, Oregon

EXHIBIT A

DECISION CRITERIA

The Planning Commission will make a recommendation to the City Council based on the findings and conclusions which address the following criteria from Coos Bay Municipal Code Chapter 17.380:

1. An acceptable rationale which supports the need for the amendment; and
2. The amendment complies with the applicable provisions of the comprehensive plan.

FINDINGS

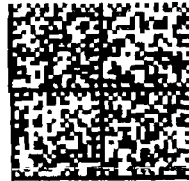
1. Statewide Planning Goal 7, Areas Subject to Natural Hazards, requires local governments to adopt and implement local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.
2. The purpose of the NFIP is not to prohibit floodplain development, but to guide development in floodplain areas in such a way as to greatly lessen the economic loss and social disruption caused by impending flood events. Federal flood insurance is only available in those communities that participate in the NFIP and flood insurance is required for the following: federally-backed loans to purchase or build structures located in any special flood hazard area; lending institutions federally regulated; the loan will be sold on the secondary market to a government sponsored enterprise. This comprises well over 95% of all mortgage loans made each year ("Floodplain Management," FEMA, 2000).
3. Comprehensive Plan, Volume I, 7.1, Natural Resources and Hazards:

NRH.5 Coos Bay shall continue to participate in the National Flood Insurance Program of the U.S. Department of Housing and Urban Development, recognizing that participation in this program substantially insures the health and well being of its residents and allow city residents to benefit from subsidized flood insurance rates.

CONCLUSION

The proposed updates to the Coos Bay Municipal Code Chapter 17.195, including the maps adopted by reference, at Exhibit A, will bring the City into compliance with the requirements of the National Flood Insurance Act of 1968 and continue eligibility in the National Flood Insurance Program. The decision criteria have been satisfied.

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