



Oregon

Theodore R. Kulungoski, 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

9/29/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of St. Helens Plan Amendment
DLCD File Number 001-10

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: Tuesday, October 12, 2010

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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jacob Graichen, City of St. Helens
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Gary Fish, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

☐ in person ☐ electronic ☐ mailed

DEPT OF

SEP 22 2010

LAND CONSERVATION
AND DEVELOPMENT
WASHINGTON STATE

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of St. Helens**

Local file number: **CPZA.1.10**

Date of Adoption: **September 15, 2010**

Date Mailed: **September 21, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 6.07.2010

☒ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

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

Updates to City Development Code and Comprehensive Plan text to comply with the Federal Emergency Management Agency's (FEMA's) floodplain map modernization. The Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) have been updated by FEMA and the City is required to update its code to, at a minimum, conform with current federal floodplain regulation law and adopt the new FIRM and FIS as provided by FEMA.

Does the Adoption differ from proposal? YES

Some text has been revised from initial submittal. Overall purpose is same.

Plan Map Changed from:

to:

Zone Map Changed from:

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 checked="" type="checkbox"/>	<input checked="" 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. 001-10 (18343) [16337]

DLCD file No. _____

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

Local Contact: **Jacob Graichen**

Phone: **(503) 366-8204** Extension:

Address: **PO Box 278**

Fax Number: **503-397-4016**

City: **St. Helens**

Zip: **97051**

E-mail Address: **jacobg@ci.st-helens.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and **One (1) Complete Paper Copy and One (1) Electronic Digital CD** (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).

City of St. Helens
ORDINANCE NO. 3138

AN ORDINANCE AMENDING THE ST. HELENS MUNICIPAL CODE, CHAPTERS
17.46, 19.12 AND 19.20 FOR CONTINUED ELIGIBILITY IN THE NATIONAL
FLOOD INSURANCE PROGRAM

WHEREAS, pursuant to SHMC 17.20.20(1)(c) the Planning Administrator initiated a legislative change to the St. Helens Development Code (St. Helens Municipal Code Title 17) and the St. Helens Comprehensive Plan (St. Helens Municipal Code Title 19) to revise the City's floodplain management regulations to at least meet the minimum standards of National Flood Insurance Policy (NFIP) regulations as required by the Department of Homeland Security's Federal Emergency Management Agency (FEMA); and

WHEREAS, FEMA completed a re-evaluation of flood hazards for the City of St. Helens and provided the City with a preliminary revised Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) on September 30, 2009; and

WHEREAS, the City is required to update its floodplain management regulations and adopt the new FIS and FIRM to which the regulations apply in a legally enforceable document by the effective date of the new FIS and FIRM: November 26, 2010; and

WHEREAS, pursuant to the SHMC and Oregon Revised Statutes, the City has provided notice to: the Oregon Department of Land Conservation and Development on June 7, 2010, all property owners within the St. Helens Urban Growth Boundary listed in the Columbia County Tax Assessor records and potentially affected agencies on June 16, 2010, and the local newspaper of record on July 28, 2010; and

WHEREAS, the St. Helens Planning Commission did hold a duly noticed public hearing on August 10, 2010 and, following deliberation, made a recommendation of approval to the City Council; and

WHEREAS, the St. Helens City Council conducted a public hearing on August 18, 2010 and having the responsibility to approve, approve with modifications, or deny an application for a legislative change, has deliberated and found that based on the information in the record and the applicable criteria in the SHMC that the proposed addendum be approved.

NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

Section 1. The above recitations are true and correct and are incorporated herein by reference.

Section 2. The City of St. Helens Development Code is hereby amended, attached hereto as **Attachment "A"** and made part of this reference.

Section 3. The City of St. Helens Comprehensive Plan is hereby amended, attached hereto as **Attachment "B"** and made part of this reference.

Section 4. In support of the code amendments described herein, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Attachment "C"** and made part of this reference.

Section 5. If any section, provision, clause, sentence, or paragraph of this Ordinance or the

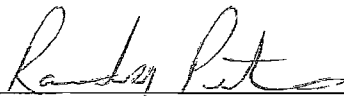
application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be servable.

Section 6. Provisions of this Ordinance shall be incorporated in the St. Helens Municipal Code and the word "ordinance" may be changed to "code," "article," "section," or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

Section 7. The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time:	September 1, 2010
Read the second time:	September 15, 2010

APPROVED AND ADOPTED this 15th day of September, 2010.



Randy Peterson, Mayor

ATTEST:



Kathy Payne, City Recorder

Added text is underlined and italicized.

Deleted text is ~~stricken~~.

Chapter 17.46 FLOODPLAINS AND FLOODWAYS

Sections:

- 17.46.010 Authorization, findings of fact, ~~P~~purpose, and objectives.
- 17.46.020 Definitions.
- 17.46.030 General provisions.
- 17.46.040 Administration.
- 17.46.045 Variances and FIRM Boundary Appeal.
- 17.46.050 Provisions for flood hazard reduction.

17.46.010 Authorization, findings of fact, ~~P~~purpose, and objectives.

(1) Authorization. The State of Oregon has in the home rule provisions of the Oregon Constitution delegated the responsibility to the City of St. Helens to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

(2) Findings of Fact:

(a) The flood hazard areas of the City of St. Helens 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.

(b) 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.

(1)(3) Purpose. It is the purpose of this chapter 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:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money and costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) 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;
- (f) 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;
- (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

~~(2)~~(4) Objectives. In order to accomplish its purposes, this chapter includes methods and provisions for:

(a) 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;

(b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

(d) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(e) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas; and

(f) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances.

17.46.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage, to give this chapter its most reasonable application, and shall apply only to requirements of this chapter and Chapter 17.44 SHMC.

(1) "Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

(2) "Area of shallow flooding" means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

~~(1)~~(3) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater change of flooding in any given year. Designation on maps always includes the letter "A."

~~(2)~~(4) "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 letter "A."

(5) "Base Flood Elevation (BFE)" means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

~~(3)~~(6) "Basement" means any ~~area~~ portion of ~~the~~ a structure or building having its floor sub-grade (below ground level) on all sides.

(7) "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.

(8) "Building Codes" means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

~~(4)~~(9) "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 installation, and installations which produce, use or store hazardous materials or hazardous waste.

~~(5)~~(10) "Development" means any manmade 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.

(11) "Digital FIRM (DFIRM)" means Digital Flood Insurance Rate Map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

~~(6)~~(12) "Elevated building" means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

~~(7)~~(13) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and/or

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

~~(8)~~(14) "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/or the risk premium zones applicable to the community.

~~(9)~~(15) "Flood insurance study (FIS)" 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.

~~(10)~~(16) "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. *Also the channel of a river/watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood.*

(17) "Historic structure" means a structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Any "designated landmark" pursuant to Chapter 17.36 SHMC.

~~(11)~~(18) "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 basement area, is not considered a building's structure's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter the enclosed area is

built and maintained in accordance with the applicable design requirements of the Building Codes.

~~(12)~~(19) *“Manufactured dwelling” or “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 dwelling” or “manufactured home”* does not include a “recreation vehicle.”

~~(20)~~ *“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.*

~~(13)~~(21) *“New construction”* means structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this chapter.

~~(14)~~(22) *“Recreational vehicle”* means a vehicle which is:

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

~~(15)~~(23) *“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.

~~(24)~~ *“State building code” means the combined specialty codes adopted by the State of Oregon.*

~~(16)~~(25) *“Structure”* means a walled and roofed building, *a manufactured dwelling, a modular or temporary building, including or* a gas or liquid storage tank that is principally above ground.

~~(17)~~(26) *“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.

~~(18)~~(27) *“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: reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The market value of the structure should be:*

~~(a) Before the improvement or repair is started~~ The appraised real market value of the structure prior to the start of the initial repair or improvement; or

~~(b) 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. In the case of damage, the appraised real market value of the structure prior to the damage occurring.~~

The term does not, however, include either:

(a) 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

(b) Any alteration of a *"historic structure,"* ~~listed on the National Register of Historic Places or a State Inventory of Historic Places~~ provided that the alteration will not preclude the structure's continued designation as a "historic structure."

~~(19)(28)~~ "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter and shall follow the requirements as established in Chapter 17.108 SHMC and SHMC 17.46.045.

~~(20)(29)~~ "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.

17.46.030 General provisions.

(1) Lands to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of St. Helens.

(2) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled **"The Flood Insurance Study for Columbia County, Oregon and Incorporated Areas,"** dated August 16, 1988 November 26, 2010, with accompanying flood insurance maps (*FIRM*) ~~are~~ is hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and *FIRM* ~~is~~ are on file at City Hall. The best available information for flood hazard area identification as outlined in SHMC 17.46.040(3)(b) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under SHMC 17.46.040(3)(b).

(3) Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined and/or imprisoned pursuant to SHMC 17.12.030, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of St. Helens from taking such other lawful action as is necessary to prevent or remedy any violation.

~~(3)~~(4) Abrogation and Greater Restrictions.

(a) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, state building

code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more restrictions shall prevail.

(b) Severability. If any section clause, sentence, or phrase of this chapter 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 chapter.

~~(4)~~(5) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

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

~~(5)~~(6) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter 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 manmade or natural causes. This chapter 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 chapter shall not create liability on the part of the city of St. Helens, an officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

17.46.040 Administration.

(1) Establishment of Development Permit.

(a) Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in SHMC 17.46.030(2). The permit shall be for all structures including manufactured homes, as set forth in the “Definitions” (SHMC 17.46.020), and for all development including fill and other activities, also as set forth in the “Definitions” (SHMC 17.46.020).

(b) Application for Development Permit. Application for a development permit shall be made on forms furnished by the ~~planning~~ community 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:

(i) Elevation [based on the North American Vertical Datum of 1988 (NAVD 88)] in relation to mean sea level of the lowest floor (including basement) of all structures;

(ii) Elevation [based on the North American Vertical Datum of 1988 (NAVD 88)] in relation to mean sea level to which any structure has been floodproofed;

(iii) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in SHMC 17.46.050(2)(b); and

(iv) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(2) Designation of the Planning Director. The planning director is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(3) Duties and Responsibilities of the Planning Director. Duties of the planning director shall include, but not be limited to:

(a) Permit Review.

(i) Review all development permits to determine that the permit requirements and conditions of this chapter have been satisfied.

(ii) 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.

(iii) 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 SHMC 17.46.050(4)(a) are met.

(b) Use of Other Base Flood Data (In A Zones). When base flood elevation data has not been provided (A zones) in accordance with SHMC 17.46.030(2), Basis for Establishing the Areas of Special Flood Hazard, the planning director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer SHMC 17.46.050(2), Specific Standards, and 17.46.050(4), Floodways.

(c) Information to Be Obtained and Maintained.

(i) Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in subsection (3)(b) of this section, obtain and record the actual (*as-built*) elevation ~~{[in relation to mean sea level based on the North American Vertical Datum of 1988 (NAVD 88)]} of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.~~

(ii) For all new or substantially improved floodproofed structures where base flood elevation data is provided through the flood insurance study, FIRM, or as required in subsection (3)(b) of this section:

(A) Verify and record the actual elevation ~~{[in relation to mean sea level based on the North American Vertical Datum of 1988 (NAVD 88)]} to which the structure was floodproofed, and~~

(B) Maintain the floodproofing certifications required in subsection (1)(b)(iii) of this section.

(iii) Maintain for public inspection all records pertaining to the provisions of this chapter.

(d) Alteration of Watercourses.

(i) Notify adjacent communities, ~~and~~ the *State* Department of Land Conservation and Development, and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(ii) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(e) Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the 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 as provided in SHMC 17.46.045. ~~Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).~~

17.46.045 Variances and FIRM Boundary Appeal.

(1) The applicable approval authority shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The applicable appellate authority shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City of St. Helens in the enforcement or administration of this chapter.

(3) Those aggrieved by the decision of the applicable approval authority or any taxpayer, may appeal such decision to the applicable appellate authority, in accordance with the St. Helens Development Code.

(4) In passing upon such applications, the applicable approval authority shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

- (a) The danger that materials may be swept onto other lands to the injury of others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (d) The importance of the services provided by the proposed facility to the community;
- (e) The necessity to the facility of a waterfront location, where applicable;
- (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (g) The compatibility of the proposed use with existing and anticipated development;
- (h) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(5) Upon consideration of the factors of SHMC 17.46.045(4) and the purposes of this chapter, the approval authority may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(6) The Planning Director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) upon request.

(7) Conditions for Variances:

(a) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items SHMC 17.46.045(4)(a)-(k) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(b) Variances may be issued for the reconstruction, rehabilitation, or restoration of historic structures without regard to the procedures set forth in this section.

(c) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

(f) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(g) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except SHMC 17.46.045(7)(a), and otherwise complies with SHMC 17.46.050(1)(a)-(c).

(h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

17.46.050 Provisions for flood hazard reduction.

(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.

(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.

(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 floodwaters into the system;

(ii) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; 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 authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(e) Review of Building Permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (SHMC 17.46.040(3)(b)) 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 historical data, high-water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

(f) AH Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(2) Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided (zones A1 – 30, AH and AE on the community's FIRM) as set forth in SHMC 17.46.030(2), Basis for Establishing the Areas of Special Flood Hazard, or 17.46.040(3)(b), Use of Other Base Flood Data (In A Zones), 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 foot or more 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 ~~have~~ 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 bottom 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) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure 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 professional 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 on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in SHMC 17.46.040(3)(c)(ii);

(iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (2)(a)(ii) of this section;

(v) Applicants floodproofing nonresidential 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) All manufactured homes to be placed 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; shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.~~

~~(ii) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30 and AE on the community's FIRM that are not subject to the above manufactured home provisions shall be elevated so that either:~~

~~(A) The lowest floor of the manufactured home is elevated one foot or more 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 is securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.~~

(i) The ground area reserved for the placement of a manufactured dwelling shall be a minimum of 12 inches above BFE unless the foundation walls are designed to automatically equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be 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 bottom of all openings shall be no higher than one foot above grade; and

(C) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(ii) The bottom of the longitudinal chassis frame beam in A zones shall be a minimum of 12 inches above BFE (see definition of Lowest Floor in Manufactured Dwelling Specialty Code).

(iii) The manufactured dwelling shall be anchored to prevent flotation collapse and lateral movement during the base flood. 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); and

(iv) Electrical crossover connections (see Manufactured Dwelling Specialty Code) shall be a minimum of 12 inches above BFE.

(d) Recreational Vehicles. Recreational vehicles placed on sites are required to either:

(i) Be on the site for fewer than 180 consecutive days;

(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.

(e) Below grade crawlspaces (i.e. crawlspaces below the lowest adjacent exterior grade) as described in FEMA Technical Bulletin 11-01, are prohibited.

(f) Accessory Structures. "Accessory buildings" or "accessory structures" as defined by Chapter 17.16 SHMC that qualifies under the definition of "structure" pursuant to SHMC 17.46.020, are not considered residential construction or nonresidential construction pursuant to SHMC 17.46.050(2)(a) and (b), for the purpose of administering the standards of structures in areas of special flood hazard, as long as such structure represents a minimal investment (i.e. no more than 10% of the total assessed value of the property based on current Columbia County Assessor records) and such structure is not greater than 200 square feet in gross floor area. Such structure needn't be subject to elevation or dry-floodproofing requirements provided all of the following performance standards are met:

(i) Structure shall not be used for human habitation;

(ii) Structure shall be designed to have low flood damage potential;

(iii) Structure shall be constructed and placed so as to offer the minimum resistance to the flow of floodwaters;

(iv) Structure shall be firmly anchored to prevent flotation which may result in damage to other structures, and shall have flood water openings; and

(v) Any service facilities incorporated into the structure such as electrical and heating equipment shall be elevated above the base flood elevation or floodproofed; flood resistant materials shall be used below the base flood elevation.

(3) Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1 – 30 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.

(4) Floodways. Located within areas of special flood hazard established in SHMC 17.46.030(2) are areas designated as floodways. Since the floodway is an extremely hazardous

area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(b) If subsection (4)(a) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

(c) Projects for stream habitat restoration may be permitted in the floodway provided:

(i) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,

(ii) 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,

(iii) No structures would be impacted by a potential rise in flood elevation; and,

(iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(d) New installation (including replacement) of manufactured dwellings is prohibited.

(5) 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 construction 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.

Added text is underlined and italicized.

Chapter 19.12 SPECIFIC LAND USE GOALS AND POLICIES

19.12.130 Hazard area category goals and policies.

(1) Goals. To protect against all loss of life or property by closely regulating construction, investment and activities in designated hazard areas.

(2) Policies. It is the policy of the city of St. Helens to:

(a) Prohibit development on lands within the 100-year floodplain (*i.e. special flood hazard areas subject to inundation by at least 1% annual flood probability*), on slopes exceeding 20 percent, or with recognized drainage problems unless showing that design and construction techniques can minimize potential loss of life or property; specifically:

(i) All development within the 100-year floodplain (*i.e. special flood hazard areas subject to inundation by at least 1% annual flood probability*) shall conform to the standards set by FEMA;

(ii) All development plans on slopes greater than 20 percent shall be reviewed and approved by the city engineer;

(iii) All development plans on lands with recognized drainage problems shall be reviewed and approved by the city engineer.

For development on such designated lands, the city may impose whatever conditions it deems necessary to protect life and property.

Chapter 19.20 MAPS

Sections:

19.20.010 Comprehensive Plan maps.

19.20.020 Comprehensive Plan map – Boundaries and designations.

19.20.030 Map and list of significant historic resources.

19.20.040 Map and list of planned development overlay zones.

19.20.050 Map and list of significant riparian corridors.

19.20.060 Map and list of significant wetlands.

19.20.070 Map and list of cultural sites (archeological).

19.20.080 Map and list of established and developing overlay zones (since 1999).

19.20.090 *Map and study of special flood hazard areas.*

19.20.090 Map and study of special flood hazard areas.

(1) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Columbia County, Oregon and Incorporated Areas,” dated November 26, 2010, with accompanying flood insurance map (FIRM) are on file at City Hall.

**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Comprehensive Plan & Development Code Text Amendment CPZA.1.10**

APPLICANT: City of St. Helens (as mandated by the Federal Emergency Management Agency)
OWNER: n/a
ZONING: n/a

LOCATION: Generally along McNulty Creek, Milton Creek, the Multnomah Channel and the Columbia River

PROPOSAL: Amend the City's Development Code & Comprehensive Plan to comply with FEMA's flood map modernization

The 120-day rule (ORS 227.178) for final action for this land use decision is n/a.

GENERAL INFORMATION

Jurisdictions are required to do certain things to comply with the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP). This includes adoption of the current Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM)/Digital FIRM (DFIRM), and ensuring the jurisdictional development laws conform to at least the minimum requirements of Federal law. The current FIS and FIRM in effect for the City of St. Helens has an effective date of August 16, 1988. The City last amended its floodplain regulations in 2007 via Ordinance 3031 to comply with changes in Federal law at that time.

The new FIS & FIRM/DFIRM will become effective November 26, 2010 and the City is required by FEMA to adopt these as well as the appropriate Development Code amendments (including resolution of appeals) by this date for the community to continue to participate in the NFIP and for properties to remain eligible for flood insurance.

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

August 10, 2010 before the Planning Commission
August 18, 2010 before the City Council

Notice of this proposal was sent to all affected property owners on June 16, 2010 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on July 28, 2010. Notice was sent to the Oregon Department of Land Conservation and Development on June 7, 2010.

At their August 10, 2010 hearing, the Planning unanimously recommended that the City Council approve this proposal.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.20.120(1) – Standards for Legislative Decision

The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

- (a) The statewide planning goals and guidelines adopted under ORS Chapter 197;
- (b) Any federal or state statutes or guidelines found applicable;
- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and
- (d) The applicable provisions of the implementing ordinances.

(a) Discussion:

This proposal is specific. As such the only statewide planning goals that apply are Goal 1, Goal 2 and Goal 7. Goal 5 is not applicable, but mentioned for clarification.

Statewide Planning Goal 1 is Citizen Involvement.

Goal 1 requires opportunity for citizens to be involved in all phases of the planning process. Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City's Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Mailed notice of these hearings are required for the applicant, affected agencies and those requesting notice. Legal notice in a newspaper of general circulation is required too. The City has met these requirements and notified property owners potentially affected pursuant to ORS 227.186. Finally, the City notified DLCD of the proposal.

Given scheduled public hearings and notice provided, Goal 1 is satisfied.

Statewide Planning Goal 2 is Land Use Planning.

This Statewide Planning Goal states that "All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs." Generally, Goal 2 requires that actions related to land use be consistent with acknowledged Comprehensive Plans and coordination with affected governments and agencies and be based on an adequate factual base.

The City has an adopted Comprehensive Plan, compliance of this proposal which is addressed herein. Moreover, explanation and proof of coordination with affected agencies and factual base are described herein, as well, including inventory, needs, etc.

Goal 2 is satisfied.

Statewide Planning Goal 5 on Open Spaces, Scenic and Historic Areas, and Natural Resources.

This goal addresses the conservation and protection of both natural and cultural resources. This proposal does not specifically pertain to any natural or cultural inventoried resources within the City's Urban Growth Boundary. Though the proposal revolves around the Columbia River, Multnomah Channel, Milton Creek and McNulty Creek, it deals with the hazards thereof rather than the natural resource aspects.

As the inventoried resources will remain protected, Goal 5 is satisfied.

Statewide Planning Goal 7 for Areas Subject to Natural Disasters and Hazards.

Goal 7 deals with development in places subject to natural hazards. It requires that jurisdictions apply "appropriate safeguards" when planning for development there.

This proposal directly relates to this Goal and there are two excerpts from the language of that Goal that apply:

Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements.

Local governments should consider measures that exceed the National Flood Insurance Program (NFIP) such as:

- a. limiting placement of fill in floodplains;*
- b. prohibiting the storage of hazardous materials in floodplains or providing for safe storage of such materials; and*
- c. elevating structures to a level higher than that required by the NFIP and the state building code.*

Flood insurance policy holders may be eligible for reduced insurance rates through the NFIP's Community Rating System Program when local governments adopt these and other flood protection measures.

The purpose of these amendments are to comply with updates to law pertaining to the NFIP. The regulations proposed meet the minimum requirements of Federal law. Though the minimum elevation required (1 foot above the base flood elevation) is not proposed to be increased, the regulations proposed do include things above and beyond the minimum necessary. **The portions of the amended Development Code text that differ from the minimum Federal requirements include, but are not necessarily limited to:**

- Definitions are not required but included for clarification (see SHMC 17.46.020, Attachment A).

- The penalties for noncompliance is not required [see SHMC 17.46.030(3), Attachment A].
- Variance section is not required but added to allow some flexibility without compromising the intent of the NFIP (see SHMC 17.46.045, Attachment A). Note: SHMC 17.46.045(7) is a required provision.
- Below grade crawlspaces (i.e. crawlspaces below the lowest adjacent exterior grade) are prohibited per the City Building Official's recommendation [see SHMC 17.46.020(7) and 17.46.050(2)(e), Attachment A].
- Regulations pertaining to accessory structures are defined. To explain, if an accessory structure qualifies under the definition of "structure," it theoretically must meet the elevation or dry-floodproofing requirements of principal buildings. In order to permit accessory structures that are not elevated or dry-floodproofed, regulations must be adopted to allow such or they must be permitted by a variance. This proposal includes provisions to allow lesser accessory structures without meting NFIP requirements [see SHMC 17.46.050(2)(f), Attachment A].
- Provisions have been included to allow stream habitat restoration in a floodway [see SHMC 17.46.050(4)(c), Attachment A].

Given the above, Goal 7 is satisfied.

Finding: These code amendments are not contrary to the Statewide Planning Goals and Guidelines adopted under ORS Chapter 197.

(b) Discussion: The amendments to the City's Development Code amendments are largely based on Federal law and the Oregon State Building Code. DLCD created a model ordinance (approved by FEMA for use by Oregon jurisdictions) that took these laws into consideration.

Finding: These code amendments are intended to comply with Federal and State law. Ultimately, participation in the NFIP means that a local government adopts and enforces floodplain management measures that meet minimum FEMA standards.

(c) Discussion: The most pertinent part of the City's Comprehensive Plan applicable to this proposal falls under SHMC 19.12.130(2)(i):

All development within the 100-year floodplain shall conform to the standards set by FEMA.

Finding: These code amendments are intended to meet the above cited policy.

(d) Discussion: This proposal will update the City's 100-year floodplain regulations; as such, it revises the City implementing ordinance pertaining to this natural hazard.

Finding: These code amendments are not contrary to the City's implementing ordinances (e.g. SHMC Title 17, Community Development Code).

SHMC 17.20.120(2) – Standards for Legislative Decision

Consideration may also be given to:


(a) Proof of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or implementing ordinance, which is the subject of the application.

Discussion: This doesn't apply.

Finding: Not applicable.

CONCLUSION & DECISION

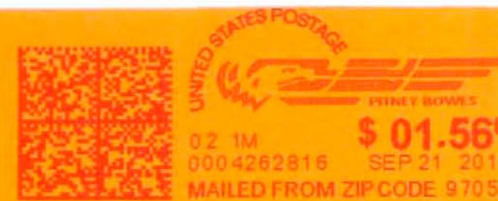
Based upon the facts and findings herein, the City Council approves these Development Code and Comprehensive Plan amendments.



Randy Petersen, Mayor

9/15/10
Date

City of St. Helens
P.O. Box 278
St. Helens, OR 97051



Attn: Plan Amendment Specialist
Dept. of Land Conservation & Develop.
635 Capitol Street NE, Ste. 150
Salem, OR 97301-2540