



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

2/19/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Yamhill 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: Friday, March 12, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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: John Morgan, City of Yamhill
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

DATE
STAMP

DEPT OF

FEB 12 2010

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

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 Yamhill

Local file number:

Date of Adoption: Feb 10, 2010

Date Mailed: Feb 12, 2010

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 1/4/10

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Adoption of new Flood Plain standards and map to meet FEMA requirements

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

Does the Adoption differ from proposal? Please select one

No

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
x	x	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	x	<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 x NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes x No

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

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

DLCD file No. _____

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

Local Contact: John Morgan

Phone: (503) 304-9401 Extension:

Address: 1308 Marigold Street NE

Fax Number: 503-304-9423

City: Keizer
john@morgancps.com

Zip: 97303 E-mail Address:

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](#)

This Form 2 must be submitted by local jurisdictions only (not by applicant).

When submitting, please print this Form 2 on light **green paper if available**.

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:

Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.

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).

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:

ORDINANCE NO. 0-488

AN ORDINANCE ADOPTING AMENDMENTS TO THE YAMHILL DEVELOPMENT CODE AMENDING CHAPTER 10.40 – FHO (FLOOD HAZARD OVERLAY ZONE) AND DECLARING AN EMERGENCY.

WHEREAS, the City's Development Code includes a Flood Hazard Overlay Zone Chapter which establishes local standards implementing the Federal Flood Hazard Program which includes the requirements for providing Federal Flood Hazard Insurance, and

WHEREAS, the Flood Hazard Overlay Zone Chapter references the FEMA Flood Maps and those maps have been updated and need to be accurately reflected in the ordinance, and

WHEREAS, the Flood Hazard Overlay Zone Chapter includes development standards consistent with Federal requirements and those requirements have been updated and changed, and

WHEREAS, updating the Flood Hazard Overlay Zone Chapter is necessary to maintain the City's conformance with the requirements for Federal Flood Hazard Insurance to be available to the citizens of Yamhill, and

WHEREAS, the Planning Commission has held a hearing on the proposed amendments and recommends approval to the City Council,

NOW, THEREFORE, THE CITY OF YAMHILL, OREGON DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Yamhill hereby adopts the proposed amendments to Section 10.40 of the Yamhill Development Code – Flood Hazard Overlay Zone, which are attached as Exhibit A.

Section 2. The City Council adopts the findings of fact attached as Exhibit B to support the adoption of the amendment noting that many of the criteria are not applicable in this matter.

Section 3. In as much as this ordinance is necessary for the peace, health and welfare of the City an emergency is declared to exist and this ordinance shall become effective immediately upon its passage by the City Council and approval by the Mayor. The emergency is predicated on the requirement of the Federal Emergency Management Agency to have the revisions to the Code in place by March 2, 2010 when the new Flood Plain maps go into effect. Otherwise the City may lose eligibility for participation in the Federal Flood Insurance Program.

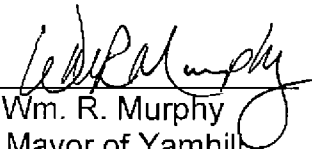
Approval and adoption by the Council on this 10th day of February 2010.

Approved by the Mayor this 10th day of February 2010.

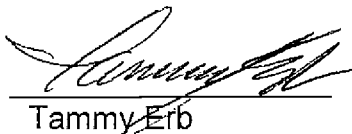
CITY OF YAMHILL, OREGON

FIRST READING: 2/10/10
SECOND READING: 2/10/10

AYES: 3
NAYS: 0

By: 
Wm. R. Murphy
Mayor of Yamhill

ATTEST:

By: 
Tammy Erb
City Recorder

Chapter 10.40
FHO FLOOD HAZARD OVERLAY ZONE

Sections:

10.40.010 Purpose

10.40.020 Statutory Authorization, Findings of Fact, Purpose and Objectives

10.40.030 Definitions

10.40.040 General Provisions

10.40.050 Administration

10.40.060 Provisions for Flood Hazard Protection

10.40.070 Use

10.40.010 Purpose. It is the purpose of the FHO zone to regulate and prohibit some uses in those areas in the Flood Hazard Overlay Zone that would endanger the safety and general welfare of the community.

A Flood Hazard Overlay Zone shall be considered as an overlay to any existing zone and the development of said property shall be in accordance with this zone's requirements for USE, except as may be specifically allowed by the Planning Commission under the provisions of this Section.

A Flood Hazard Overlay Zone shall be identified on the ZONING MAP in addition to the existing zone. (Ord. 384, §2(part), 1988; Ord. 420, §3, 1997; Ord. 454, §2, 2000)

10.40.020 Statutory Authorization, Findings of Fact, Purpose and Objectives.

- (A) Statutory Authorization. The legislature of the State of Oregon has in ORS 92.046 delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.
- (B) Findings of Fact.
 - (1) The flood hazard area of Yamhill are subject to periodic inundation which may result 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 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 flood proofed, elevated or otherwise protected from flood damage also contribute to flood loss.

EXHIBIT A - City of Yamhill Flood Hazard Overlay Zone – 2010 Amendment

- (C) Statement of Purpose. It is the purpose of this Flood Hazard Overlay Zone to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in areas by provisions designed:
 - (1) To protect human life and health;
 - (2) To minimize expenditures 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, street and bridges located in areas of specific 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 insure that potential buyers are notified that property is in an area of special flood hazard; and
 - (8) To insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

- (D) Methods of Reducing Flood Losses. In order to accomplish its purposes, this section 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 and velocities;
 - (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, to be protected against flood damage at the time of initial construction;
 - (3) Controlling the alteration of natural flood plains, stream channels and protective barriers which help accommodate or channel flood waters;
 - (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
 - (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.
 - (6) Coordinating and supplementing the provisions of the state building code with local land use and development ordinances

(Ord. 384, §2(part), 1988; Ord. 420, §3, 1997; Ord. 454, §2, 2000)

10.40.030 Definitions. Unless specifically defined below, words or phrases use in this section shall be interpreted so as to give them the meaning they have in common usage and to give this section its most reasonable application.

EXHIBIT A - City of Yamhill Flood Hazard Overlay Zone – 2010 Amendment

"Appeal" means a request for a review by the City Council of the interpretation of any provision of this chapter or a request for a variance.

"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.

"Area of Special Flood Hazard" means the land in the flood plain within a community subject to a 1 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 1 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 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

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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:

- (A) The overflow of inland or tidal waters; and/or
- (B) 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.

"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 Title found at Section 10.40.060(B)(1).

"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 connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term manufactured home, does not include park trailers, travel trailers, and other similar vehicles.

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

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

"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:

- (a) Built on a single chassis;
- (b) 400 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.

"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; of 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 foundation or the erection of temporary forms; nor does it include the installation on the accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"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 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:

- (A) Before the improvement or repair is stated; or

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- (B) If the structure has been damaged and is being restored, before the damage occurred, for the purpose 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:

- (A) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (B) 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 Title which permits construction in a manner that would otherwise be prohibited by this Title.

"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.

(Ord. 384, §2(part), 1988; Ord. 420, §3, 1997; Ord. 454, §2, 2000)

10.40.040 General Provisions.

- (A) Lands to which this Zone Applies. The Flood Hazard Overlay Zone shall apply to all areas of special flood hazards within the jurisdiction of the City of Yamhill.
- (B) 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 the Yamhill County, Oregon", dated--March 2, 2010, with accompanying flood insurance maps, is hereby adopted as reference and declared to be part of this section. The study is on file at Yamhill City Hall, and Yamhill Planning Department, County Courthouse, McMinnville, Oregon.
- (C) Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this section and other applicable regulations. This section does not apply to existing structures in the flood plain where proposed alterations and improvements do not constitute substantial improvements as defined in Section 10.40.030 of this section.
- (D) Abrogation and Greater Restrictions. This section is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this section and other regulations, state building code, easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. If

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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.

- (E) Interpretation. In the interpretation and application of this section, 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.

- (F) Warning and Disclaimer of Liability. The degree of flood protection required by this section 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 section 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 section shall not create liability on the part of the City of Yamhill, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder. (Ord. 384, §2(part), 1988; Ord. 420, §3, 1997; Ord. 454, §2, 2000)

10.40.050 Administration.

- (A) Establishment of Development Permit. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 10.40.040(B). The permit shall be for all structures, including manufactured homes, as set forth in the "definitions" and for all other development including fill and other activities, also set forth in the "definitions". Application for a development permit shall be on forms furnished by the Planning 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:
 - (1) Elevation in relationship to mean sea level, of the lowest floor (including basement) of all structures;
 - (2) Elevation in relation to mean sea level to which any structure has been flood proofed;
 - (3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meets the flood proofing criteria in Section 10.40.060(B); and
 - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

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- (B) Designation of the Planning Commission. The Planning Commission is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.
- (C) Duties and responsibilities of the Planning Commission shall include, but not be limited to:
 - (1) Permit Review.
 - (a) Review all development permits to determine that the permit requirements and conditions of this section have been satisfied.
 - (b) Review all development permits to determine that those federal, state or local governmental agencies from which prior approval is required.
 - (c) 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 10.40.060(C) are met.
 - (2) Use of Other Base Flood Data. When base flood data has not been provided in accordance with Section 10.40.040(B), Basis for Establishing the Areas of Special Flood Hazard, the Planning Commission 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 Section 10.40.060(B), Specific Standards, and 10.40.060(C) Flood ways.
 - (3) Information to be Obtained and Maintained.
 - (a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable 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 flood proofed structures:
 - (1) Verify and record the actual elevation (in relation to mean sea level); and
 - (2) Maintain the flood proofing certifications required in Section 10.40.050.
 - (c) Maintain for public inspection all records pertaining to the provisions of this section.
 - (4) Alterations of Watercourses.
 - (a) Notify adjacent communities, the 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.

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- (b) Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished.
- (5) 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 Section 10.40.050(D).
- (D) Variance and Appeal Procedure
 - (1) The Planning Commission as established by the City of Yamhill shall hear and decide appeals and request for variances from the requirements of this Title.
 - (2) The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Planning Commission in the enforcement or administration of this Title.
 - (3) Those aggrieved by the decision of the Planning Commission, or any taxpayer, may appeal such decision to the City Council, as provided in Chapter 10.128 of this Title.
 - (4) In passing upon such applications the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Title, 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 content 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 water-front 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;

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- (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 facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
 - (5) Upon consideration of the factors of Section 10.40.050(D)(4) and the purposes of this Title, the Planning Commission may attach such conditions to the granting of variances at it deems necessary to further the purposes of this Title.
 - (6) The Planning Commission shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.
- (E) Conditions for Variances
 - (1) 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 (a-k) in Section 10.40.050(D)(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
 - (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
 - (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 - (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (5) Variances shall only be issued upon:
 - (a) a showing of good and sufficient cause;
 - (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (c) 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 as identified in Section 10.40.050(4)(D), or conflict with existing local laws or regulations.

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- (6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of 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.
- (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 10.40.050(E)(1), and otherwise complies with Sections 10.40.060(A)(1) and 10.40.060(A)(2) of the General Standards.
- (8) 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. (Ord. 384, §2(part), 1988; Ord. 420, §3, 1997; Ord. 454, §2, 2000)

10.40.060 Provisions for Flood Hazard Protection.

- (A) General Standards. In all areas of special flood hazards, the following standards are required:
 - (1) Anchoring:
 - (a) All new construction and substantial improvements shall be anchored to prevent floatation, collapse or lateral movement of the structure;
 - (b) All manufactured homes shall be anchored to prevent floatation, 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 and frame ties to ground anchors (Reference FEMA's "Manufacturing Home Installation in Flood Hazard Areas" guidebook for additional techniques).
 - (2) Construction Materials and Methods.
 - (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be

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- (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.
- (b) All 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 flood waters. 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:
 - (1) A minimum of two openings having a total open area of not less than one square inch for every square foot of enclosed area subject to flood shall be provided.
 - (2) The bottom of all-openings shall be no more higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - (a) Be flood proofed so that below the base flood level the structure is water-tight, with walls substantially impermeable to the passage of water;
 - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - (c) 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 Section 10.28.050(C)(3)(b).
 - (d) Nonresidential structures that are elevated, not flood proofed, must meet the same-standards for space below the lowest floor as described in 10.28.060(B)(1)(b).
 - (e) Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a

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- (c) Meet the requirements of 5.2-3 above and the elevation and anchoring requirements for manufactured homes.
- (5) Below-grade crawl spaces. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*:
 - (a). 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 Section B 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.
 - (b) 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.
 - (c) 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.
 - (d) 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.
 - (e) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
 - (f) 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.
 - (g) 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.

- (h) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.
- For more detailed information refer to FEMA Technical Bulletin 11-01.

(C) 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.

- (D) Flood ways. Located within areas of special flood hazard established in Section 10.28.040(B), are areas designated as flood ways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:
 - (1) Except as provided in paragraph (3), 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 analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - (2) If Section 10.28.060(D)(1), is satisfied, all new construction and substantial improvements shall comply with all applicable floods hazard reduction provisions of Section 10.28.060, Provisions for Flood Hazard Reduction. (Ord. 384, §2(part), 1988; Ord. 420, §3, 1997; Ord. 454, §2, 2000)
 - (3) Projects for stream habitat restoration may be permitted in the floodway provided:

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- (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.
- (4) 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 welfare of the 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:
 - (1). As required by **44 CFR 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;
 - (2). 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;
 - (3) The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;

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- (4) 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;
 - (5) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and
 - (6) Any other requirements deemed necessary by the authority having jurisdiction.
- (D) 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 above BFE 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.

10.40.070 Use. In an F-H Zone the following uses and their accessory uses are permitted:

- (A) Public park, open space;
- (B) Farming;
- (C) Camp grounds;
- (D) Travel trailer park;
- (E) Drive-in theater. (Ord. 384, §2(part), 1988; Ord. 420, §3, 1997; Ord. 454, §2, 2000)

EXHIBIT B

FINDINGS OF FACT

ADOPTING AMENDMENTS TO THE YAMHILL DEVELOPMENT CODE AMENDING CHAPTER 10.40 – FHO (FLOOD HAZARD OVERLAY ZONE)

FINDING: The Yamhill Development Code does not include any criteria for considering amendments of the Development Code text. Yamhill Code section 10.132.090 establishes the criteria for an amendment to the Comprehensive Plan text and map. Therefore, the standards of Section 10.132.090 will be used where relevant as they speak to the same general concerns and issues as are relevant in considering an amendment to the Code text:

10.132.090 Findings Required for Granting a Comprehensive Plan Amendment. The Planning Commission and City Council shall analyze the following points and, in a written form, incorporate such findings in its decision.

- (A) That there is a public need for a comprehensive plan amendment.
- (B) That there was an error in the original comprehensive plan.
- (C) That there is a need to change the currently adopted comprehensive plan.
- (D) That there is an inadequacy of other comparatively planned and/or zoned land currently available to satisfy the public need.
- (E) That the property proposed to be changed is the best property available for the comprehensive plan amendment.
- (F) That the proposed comprehensive plan amendment is in conformance with all Statewide Goals, and any applicable street, highway and/or utility plans for the area.
- (G) That the proposed property is adequate in size and shape to facilitate those uses allowed in the proposed zone upon adoption of the comprehensive plan amendment.
- (H) That the proposed property is properly related to streets and highways to adequately serve the type of traffic that will be generated by the uses in the proposed zone upon adoption of the comprehensive plan amendment.
- (I) That the proposed comprehensive plan amendment will have no adverse affect on abutting property or the permitted uses thereof.

FINDING: Section 10.132.090 includes many criteria appropriate for consideration of a land use application effective a specific parcel or parcels of property and not appropriate for adoption of a text amendment. In the findings that follow the criteria that are not applicable are so noted.

CRITERIA: That there is a public need for a comprehensive plan amendment

FINDING: There is a need to update the Flood Hazard Overlay Zone in order to conform with updated Federal regulations and mapping which is necessary to both provide the

best protection to the Yamhill citizens and to maintain eligibility for Federal Flood Hazard Insurance. The criterion is met.

CRITERIA: That there was an error in the original comprehensive plan

FINDING: This criterion is not applicable as it relates to an error on the land use map.

CRITERIA: That there is a need to change the currently adopted comprehensive plan

FINDING: There is a need to change the currently adopted development code text as the Codes provisions for managing land use in floodplains are out of date, as is the reference to FEMA flood plain maps. The criterion is met.

CRITERIA: That there is an inadequacy of other comparatively planned and/or zoned land currently available to satisfy the public need

FINDING: The criterion is irrelevant as it deals with a specific mapping issue.

CRITERIA: That the property proposed to be changed is the best property available for the comprehensive plan amendment

FINDING: This criterion is not applicable as it relates to property, not a text amendment.

CRITERIA: That the proposed comprehensive plan amendment is in conformance with all Statewide Goals, and any applicable street, highway and/or utility plans for the area

FINDING: The Code amendments conform to Goal 1 as there were public hearings before the Planning Commission and City Council; to Goal 2 as the development of flood hazard standards and mapping is a part of the required land use planning process; and to Goal 7 as the proposed amendments are intended to prevent hazards and mitigate their impacts. The other Statewide Planning Goals are not applicable as they do not speak to planning requirements relevant to the purpose of the study.

CRITERIA: That the proposed property is adequate in size and shape to facilitate those uses allowed in the proposed zone upon adoption of the comprehensive plan amendment

FINDING: This criterion is not applicable as it relates to property, not a text amendment.

CRITERIA: That the proposed property is properly related to streets and highways to adequately serve the type of traffic that will be generated by the uses in the proposed zone upon adoption of the comprehensive plan amendment

FINDING: This criterion is not applicable as it relates to property, not a text amendment.

CRITERIA: That the proposed comprehensive plan amendment will have no adverse affect on abutting property or the permitted uses thereof

FINDING: This criterion is not applicable as it relates to property, not a text amendment.