

Curry County - Oregon

94235 Moore Street Gold Beach, Oregon 97444

Flood Damage Prevention Ordinance

Revised June 30, 1992



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SECTION 1.0 STATUTORY AUTHORIZATION FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt comprehensive plans and regulations to promote the public health, safety, and general welfare of its citizenry with respect to flooding and other natural hazards under Statewide Planning Goals 7 and 18 and Building Codes Agency Order of Authorization B100A-455.040 dated March 22, 1990. Therefore, the Board of Commissioners of Curry County, Oregon does ordain as follows:

1.2 FINDINGS OF FACT

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

1.3 STATEMENT OF PURPOSE

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

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for emergency 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 mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To promote a policy that potential buyers are notified that property is in an area of special flood hazard and to discourage the victimization of uninformed land and home buyers;
- (8) To prevent development which increases base flood heights that could increase flood damage and may result in conflicts or litigation between property owners,
- (9) To make flood insurance available from FEMA at the lowest possible rates; and
- (10) To promote a policy whereby those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

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

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

SECTION 2.0 DEFINITIONS

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

"ACCESSORY (APPURTENANT) STRUCTURE" means a structure which is on the same parcel of land as the principal structure, and the use of which is incidental to the use of the principal structure.

"APPEAL" means a request for a review of the Flood Hazard Administrator's interpretation of any provision of this ordinance.

"AREA OF SHALLOW FLOODING" means a designated AO or AH Zone on the Flood Hazard Map. The base flood depths range from one to three feet; 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 one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

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

"BOARD" means the Curry County Board of Commissioners.

"BREAKAWAY WALL" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system or any buildings to which they might be carried by flood waters.

"COASTAL HIGH HAZARD AREA" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

"COUNTY" means Curry County, Oregon.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or

materials located within the area of special flood hazard.

"FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" is the Federal agency which administers the National Flood Insurance Program.

"FLOOD OR FLOODING" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
(1) The overflow of inland or tidal waters and/or
(2) The unusual and rapid accumulation of runoff of surface waters from any source.

"FLOOD HAZARD ADMINISTRATOR" means the Planning Director or his or her designee.

"FLOOD HAZARD MAP" is a composite of federal Flood Insurance Rate Maps, Floodway Maps and more recently acquired information that does not appear on the federal maps. It is used to administer the Curry County Flood Damage Prevention Ordinance.

"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 profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

"FLOOD PROOFING" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"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 elevation more than one foot. A floodway is an engineering construct, not a natural feature, designed to channel the water of a 100-year flood out of the area as quickly as possible with minimal flood damage. Regulatory floodways are shown on the Floodway maps for Curry County.

"FLOODWAY FRINGE" means the area within the 100 year flood plain excluding the floodway.

"FUNCTIONALLY DEPENDENT USE" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for loading or unloading cargo or passengers and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"GRADE" is the elevation of the lowest ground level immediately adjacent to the building, or for pre-construction, the building site.

"INCREASE IN BASE FLOOD HEIGHT" means a calculated upward rise in the base level flood elevation resulting from comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain

"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, and that cannot be enclosed as a basement, 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 design requirements of this ordinance.

"LOWEST HORIZONTAL SUPPORTING MEMBER" means the horizontal beam or floor joist that provides structural support for the habitable floor of the structure.

"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.

"MANUFACTURED HOME PARK OR MAUNFACTURED HOME SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"MEAN HIGH TIDE" means the average height, relative to mean sea level, of all observed high tides from tidal data available for coastal site shown on the community's Flood Insurance Rate Map.

"MEAN SEA LEVEL" means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"NEW CONSTRUCTION" means for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after April 3, 1978 and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after April 3, 1978 and includes any subsequent improvements to such structures.

"PARTITION" means to divide land into two or three parcels of land within a

calendar year, but does not include:

- (a) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- (b) An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance; or
- (c) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).

"PRIMARY FRONTAL DUNE" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

"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 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 required. 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 foundation 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.

"STRUCTURE" means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

"SUBDIVISION" means any land division of 4 or more parcels.

"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 assessed value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value of the structure including the cumulative value of a series of repairs, reconstructions, or improvements either:

- (1) before the improvement or repair is started, or
- (2) before the damage occurred, if the structure has had substantial damage.

The term does not, however, include either:

- (1) 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
- (2) any alteration of a 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.

"VARIANCE" means a grant of relief from the requirements of this ordinance.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Curry County. These areas are depicted on federal Flood Insurance Rate Maps & Floodway Maps for Curry County dated October 24, 1985 and/or on Curry County Flood Hazard Maps.

Curry County hereby adopts the federal Flood Insurance Rate Maps (10/24/85), Floodway Maps (10/24/85), and subsequent FEMA revisions by reference. Curry County also adopts the Flood Hazard Map dated October 8, 1991 by reference.

3.2 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 Curry County" dated October 24, 1985, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be a part of this ordinance for flood insurance purposes. The Flood Insurance Study is on file at the Curry County Public Services Department, Courthouse Annex, Gold Beach, Oregon.

For purposes of comprehensive land use planning and the administration of planning, on-site sewage disposal, and building permits Curry County has adopted a separate set of Flood Hazard Maps based on the Flood Insurance Rate Maps (FIRM) referenced above and other data and are at least as restrictive as the FIRM maps. Unless it is otherwise specified, any reference to maps in this ordinance refers to Curry County's separate set of Flood Hazard Maps.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to citation under Curry County Ordinance No.90-06 and its amendments and subsequent revisions and in addition shall pay all costs and expenses involved in the case. Each day on which a violation exists shall be deemed to be a separate violation. Nothing herein contained shall prevent Curry County from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail. Curry County assumes no responsibility for the enforcement of private easements, covenants, or deed restrictions.

3.5 INTERPRETATION

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

- (1) Considered as minimum requirements
- (2) Deemed neither to limit nor repeal any other powers granted under State statutes.
- (3) Liberally construed in favor of the furtherance of the purposes of this ordinance.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such area will be free from flooding or flood damages. This ordinance shall not create liability on the part of Curry County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder. Persons seeking to develop within an area of special flood hazard or coastal high hazard area must do so with the understanding that they and their successors assume the risk of flood damage and that these risks cannot be eliminated even with strict compliance with the standards adopted herein.

3.7 SEVERABILITY

Should any section, clause, or provision of this ordinance be declared invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared invalid.

SECTION 4.0 ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.1-1 Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS", and for all development including fill and other activities, also as set forth in the "DEFINITIONS".

4.1-2 Application for Development Permit

Application for a development permit shall be made on forms furnished by the Flood Hazard Administrator to be submitted with a fee as established by order of the Board. Specifically, the following information is required:

- (1) Elevation in relation 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 floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non residential structure meet the floodproofing criteria in Section 9.2-2; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

Additional information which may be required by the Flood Hazard Administrator includes: 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.

4.2 DESIGNATION OF THE FLOOD HAZARD ADMINISTRATOR

The Flood Hazard Administrator is designated to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE FLOOD HAZARD ADMINISTRATOR

Duties of the Flood Hazard Administrator shall include, but are not limited to:

4.3-1 Notice and Development Permit Review

The Flood Hazard Administrator shall provide the following notice to affected parties and review permit requests in the following manner in making decisions regarding development permits

- (1) Provide notice to affected parties concerning all development permit requests as provided for in ORS 197.763 (2) and (3)
- (2) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (3) 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.
- (4) Review all development permits in un-numbered A zones and numbered A zones without a designated to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this ordinance, "adversely affects" means that the cumulative effect of the proposed development when combined with all other existing and permitted development will increase the water surface elevation of the base flood more than one foot at any point. In numbered A zones with designated floodways no increase in the water elevation of the base flood shall be allowed
- (5) All development shall comply with all conditions of the development permit and this ordinance. The Flood Hazard Administrator shall have the authority to inspect developments for consistency with the issued permit and conditions thereto, this ordinance, and applicable FEMA regulations. The Flood Hazard Administrator may suspend or revoke the development permit and issue necessary orders to ensure compliance with the applicable requirements.
- (6) In all cases in this ordinance where there is a reference to a study or design related to hydraulic, hydrostatic or hydrodynamic factors that is to be performed or certified by an Oregon registered engineer or architect.
- (7) The Flood Hazard Administrator shall render the decision regarding all development permits in the form of a written land use decision order which is supported by findings of fact.
- (8) The Flood Hazard Administrator shall provide a copy of the decision order to the applicant and all affected parties who responded to the notice of the requested development permit, as well as to the Board.
- (9) The Flood Hazard Administrator shall make a record of all determinations for the location of whether a proposed development site is located within a special flood hazard area on those lands which are partially located within flood hazard boundaries; however, no development permit fee shall be charged for such determinations and no development permit fee shall be charged if the proposed

development does not require base flood elevation or floodproofing.

4.3-2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Flood Hazard Administrator 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 Sections 5.0 -SHALLOW FLOODING AREAS; 6.0 - FLOODPLAIN PROVISIONS; 7.0 -FLOODWAY PROVISIONS, 8.0 -COASTAL HIGH HAZARD AREA, and 9.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.

4.3-3 Information to be Obtained and Maintained

- (1) Where base flood elevation data is provided through the Flood Insurance Study or established as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the bottom of the lowest horizontal supporting member in V zones, and of the lowest floor (including basement) in A zones of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (i) verify and record the actual elevation to which the structure was flood proofed (in relation to mean sea level), and
 - (ii) maintain the floodproofing certifications required in Section 9.2-2(3)
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (4) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.
- (5) The county shall keep on file in the Department of Public Services information known on flooding conditions affecting lands under county jurisdiction. The applicant shall use the information in preparing the application to demonstrate compliance with the requirements of this ordinance.
- (6) The Flood Hazard Administrator shall maintain the records of all appeal actions and report any variances including justification for their issuance, to FEMA, annually or biennially.

4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities, Curry Soil and Water Conservation

District, the Army Corps of Engineers, Division of State Lands, Oregon Department of Land Conservation and Development and Federal Emergency Management Agency, Region X prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

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

4.3-5 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 4.4.

4.4 APPEAL AND VARIANCE PROCEDURE

4.4-1 Appeal Procedure

- (1) The Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Flood Hazard Administrator in the enforcement or administration of this ordinance.
- (2) Any such appeal shall be in writing and must be filed with the Board within fifteen (15) days of the mailing (postmark) date of the order for a decision by the Flood Hazard Administrator. The appeal shall specify the reasons for the requested appeal.
- (3) The Flood Hazard Administrator shall provide the Board with the findings and documentation relating to the decision being appealed.
- (4) The Board shall conduct a hearing on the matter and affirm, modify or reverse the Flood Hazard Administrator's decision. The burden of proof is upon the applicant in all appeals under the provisions of this ordinance.
- (5) The Board shall reach a decision within thirty (30) days following the filing of an appeal unless the appellant consents to an extension of time. The Board's decision shall be reduced to a written order and shall contain findings of fact and conclusions of law which support the decision.

4.4-2 Variance Procedure

- (1) The Board shall hear and decide written requests for variances from the requirements of this ordinance. In such hearings the burden of

proof is on the applicant. The Board's decisions shall be reduced to a written order and shall contain findings of fact and conclusions of law which support the decision.

- (2) In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:
- damage;
- (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;
 - (viii) the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) 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;
 - (xi) 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.
- (3) Upon consideration of the factors of Section 4.4-2(2) and the purposes of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (4) 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 (i-xiii) in Section 4.4-2(2) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- (5) 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. Variances may be issued for the

repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- (6) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (7) Variances shall only be issued upon findings that:
 - (i) the requested variance is consistent with the purposes of this ordinance as stated in Section 1.3;
 - (ii) there is a showing of good and sufficient cause;
 - (iii) failure to grant the variance would result in exceptional hardship to the applicant;
 - (iv) the requested variance is not contrary to public interest; and
 - (v) 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 4.4-2(2), or conflict with existing local laws or ordinances.
- (8) Variances shall not:
 - (i) grant, extend or increase any use of the property prohibited by the Curry County Zoning Ordinance;
 - (ii) be granted for a hardship based solely on an economic gain or loss;
 - (iii) be granted for a hardship which is self-created;
 - (iv) damage the rights or property of others in the area;
 - (v) permit a lower degree of flood protection in the floodplain than the base flood elevation; and
 - (vi) allow any floor, basement or crawlway below the base flood elevation for residential structures.
- (9) 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.
- (10) 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 4.4-2(4), and otherwise complies with Sections 9.1-2 to 9.1-5 and 9.2-2 of this ordinance.
- (11) Variances may be issued by the County for new construction and substantial improvements and for other development necessary for

the conduct of a functionally dependent use provided that:

- (i) the standards of (i) to (vi) of Section 4.4-2(2) are met, and
- (ii) the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

- (12) 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.

SECTION 5.0 SHALLOW FLOODING AREAS

5.1 INTRODUCTION

The provisions of this section are applicable to shallow flooding areas (AO zones).

5.1.1 Identification of Shallow Flooding Areas

Shallow flooding areas as designated on the flood hazard maps and flood insurance rate maps as AO zones are areas of special flood hazard that flood to shallow water depths and have unpredictable flow paths. The base flood depths in these zones range from one (1) to three (3) feet where a clearly defined channel does not exist and where velocity flow may be evident. Such flooding is characterized as sheet flow.

SECTION 6.0 FLOODPLAIN PROVISIONS

6.1 INTRODUCTION

The provisions of this section are applicable to all floodplain areas.

6.1-1 Floodplain Identification

Floodplains are areas of Curry County which are adjacent to rivers or streams that are designated as areas of special flood hazard or are subject to a one percent or greater chance of flooding (100 year flood). The 100 year floodplain may include the floodway fringe, floodway and the stream channel.

6.1-2 Flood Insurance Zones

Lands within the floodplain are divided into flood insurance zones, each having specific flood potential or hazard. The official flood insurance zones are delineated on the Flood Insurance Rate Maps (FIRM). The FIRM show base flood elevation lines and the locations of the expected "whole-foot" water-surface elevations of the base (100 year) flood.

SECTION 7.0 FLOODWAY PROVISIONS

7.1 INTRODUCTION

The provisions of this section are applicable to all floodway areas.

7.1-1 Floodway Identification

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. For streams, creeks, rivers and other watercourses where the county has not identified the floodway, the entire floodplain shall be treated as a floodway, or a study prepared by an Oregon registered professional engineer and approved by the county and FEMA may be used to define the floodway limits for a stream section.

7.1-2 Floodway Provisions and Modification

- (1) Within a floodway, encroachments, including fill, new construction, substantial improvements, and other developments are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If the above section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 9.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (3) Floodway modifications must be approved by FEMA.

7.1-3 Floodway Uses

- (1) The following open space uses are allowed in floodways:
 - (i) agricultural uses, such as farming, pasturing, outdoor plant nurseries, horticulture, viticulture, forestry, etc.;
 - (ii) nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips;
 - (iii) nonstructural private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, fish hatcheries, etc.;
 - (iv) uses accessory to open space uses, or essential for historic areas that are not in conflict with the purpose and intent of this ordinance;

- (2) Subject to County approval, the following uses may be allowed in floodways:
 - (i) extraction of sand and gravel or other related materials;
 - (ii) functionally dependent uses;
 - (iii) public utilities, streets, roads, and bridges.

7.1-4 Prohibited Floodway Uses

- (1) Structures, in, on, or over floodway areas which are designed for human habitation are prohibited.

SECTION 8.0 COASTAL HIGH HAZARD AREAS

8.1 INTRODUCTION

The provisions of this section are applicable to all coastal high hazard areas. Coastal areas subject to this ordinance shall include all beaches, active foredunes, and other foredunes subject to ocean flooding, undercutting or wave overtopping.

8.1-1 Coastal High Hazard Area Identification

Coastal high hazard areas are located within the areas of special flood hazard established in Section 3.2 or described in Section 8.1. These areas have special flood hazards associated with high velocity waters from ocean waves and tidal surges. For coastal areas extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources where the county has not identified coastal high hazard areas, the coastal area shall be treated as a V zone or a study shall be prepared by an Oregon Registered Professional Engineer and approved by the county and FEMA to define the coastal high hazard area for a section of coastline. Primary frontal dunes will not be considered as effective barriers to base flood storm surges and associated wave action where the cross-sectional area of the primary frontal dune, as measured perpendicular to the shoreline and above the 100-year stillwater flood elevation and seaward of the dune crest, is equal to, or less than, 540 square feet.

8.1-2 Dune Modification

Foredune grading or sand removal from foredunes is not permitted.

SECTION 9.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

9.1 GENERAL STANDARDS

Unless otherwise noted the standards set forth in this section are applicable to all areas of special flood hazard.

9.1-1 Review of Building Permits

Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two (2) feet above grade in these zones may result in higher insurance rates.

9.1-2 Development Standards

- (1) No development shall be allowed that will:
 - (i) adversely restrict, alter, or increase the flow of floodwaters in the floodway;
 - (ii) adversely affect the efficiency or capacity of the floodway or the integrity or stability of flood protection facilities; or
 - (iii) increase water surface elevation within any area of special flood hazard or the location of the floodway during the base level flood beyond minimum FEMA standards.
- (2) All structures constructed in areas of shallow flooding shall have adequate drainage paths (ditches, culverts, storm drains, etc.) around them to guide floodwaters away from the structure. Structures constructed on slopes shall have drainage paths around them to guide floodwater safely down the slope in a natural flow pattern. Drainage paths used to comply with this section shall not direct floodwaters in a manner so as to cause an adverse effect on adjacent structures or property.
- (3) No dwelling shall be constructed in an area of special flood hazard if the lot or parcel contains sufficient, suitable, existing, buildable land area so as to permit construction at least one foot above the base flood elevation or outside the area of special flood hazard.

9.1-3 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

- (2) 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.

9.1-4 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

9.1-5 Utilities

- (1) All new and replacement public water supply systems shall be floodproofed to one foot above base flood elevation to minimize or eliminate infiltration of flood waters into the system.
- (2) New and replacement public sanitary sewage systems shall be floodproofed to one foot above base flood elevation to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- (3) All new and replacement private water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (4) On-site waste water disposal systems shall be permitted only if located and designed to avoid impairment and to eliminate contamination of flood waters.
- (5) Electrical, telephone and television lines, 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. Poles and towers shall be constructed and placed to minimize risk of damage.
- (6) Construction of utilities shall be done in a way which minimizes the impact on the flood plain and drainage hazard area. The site shall be restored, as far as practicable, to its original state.
- (7) Drainage systems shall be designed and constructed according to the adopted master drainage plan for the area, if one has been completed.

9.1-6 Subdivision And Partitions

- (1) Residential use land subdivision and partitions shall not be allowed within any area of special flood hazard with the following exceptions:
 - (i) partitions or subdivisions that propose lots or parcels with

- existing structures outside of areas of special flood hazard either through elevation above the base flood level or by location outside the area of special flood hazard;
- (ii) partitions or subdivisions that propose lots or parcels that are partially within areas of special flood hazard but have designated development sites which are located entirely outside an area of special flood hazard.
- (2) All nonresidential use subdivision and partition proposals shall be consistent with the need to minimize flood damage.
 - (3) All nonresidential use subdivision and partition proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (4) All nonresidential use subdivision and partition proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - (5) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision or partition proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, (whichever is less).
 - (6) All proposed nonresidential use subdivision and partition lots shall have a setback from the ocean, lake, bay, riverfront or other body of water, to create a safety buffer consisting of a natural vegetative or contour strip. This buffer will be designated by the Flood Hazard Administrator according to the flood related erosion hazard and erosion rate, in conjunction with the anticipated "useful life" of structures, and depending upon the geologic, hydrologic, topographic and climatic characteristics of the land. The buffer may be used for suitable open space purposes, such as agricultural, forestry, outdoor recreation and wildlife habitat areas, and for other activities using temporary and portable structures only.

9.1-7 Accessory Structures

Accessory Structures such as sheds, small detached garages, etc., shall be exempt from elevation and floodproofing standards providing the following conditions are met:

- (1) Accessory structures can not be more than 10% of the value of the main structure.
- (2) Accessory structures shall not be used for human habitation;
- (3) Accessory structures shall be designed to have low potential for flood damage;
- (4) Accessory structures shall be constructed and placed on a building site so as to offer minimum resistance to the flow of flood waters; and
- (5) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.

- (6) Service facilities such as electrical, communication and heating equipment shall be elevated or floodproofed.
- (7) All other requirements for the construction of structures in an area of special hazard or encroachment in a floodway shall be applicable to the construction of accessory structures, including the approval of a development permit;

9.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Section 4.3-2, USE OF OTHER BASE FLOOD DATA, the following provisions are required:

9.2-1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above base flood elevation and shall be anchored so as to prevent flotation, collapse or lateral movement. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor, including basement, elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM and at least two (2) feet above grade if no depth number is specified.
- (2) Dwellings shall be placed on pilings when certified by an Oregon registered engineer as being of sufficient strength to resist collapse or movement during a one hundred (100) year flood, or, dwellings shall be placed on approved fill (except in the Coastal High Hazard Area) providing the building site, which includes the ground under the structure plus a twenty-five (25) foot setback around all sides of the structure, is above the base flood elevation, or, shall be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water in accordance with the Oregon Building Code.
- (3) Fill used to elevate dwellings above the Base Flood Elevation shall be designed to prevent erosion and scour from flood waters in accordance with the standards set forth in FEMA document #102.
- (4) All new construction and improvements to existing structures shall be done with materials and utility equipment resistant to flood damage, using construction methods and practices that minimize such damage. All new construction and improvements to existing structures shall be anchored to resist flotation, collapse or lateral movement.
- (5) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited.

9.2-2 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 a minimum of one (1) foot above the base flood elevation; except in an AO zone the lowest floor, including basement, shall be elevated above the highest adjacent grade of the building site, to or above the depth number on the FIRM and at least two (2) feet if no depth number is specified; or, together with attendant utility and sanitary facilities, shall:

- (1) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water in accordance with the Oregon Building Code;
- (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) be certified by a registered professional engineer or architect that the design and methods for 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 certification shall be provided to the Flood Hazard Administrator as set forth in Section 4.3-3 (2);
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 9.2-1 (2) & (5);
- (5) The Flood Hazard Administrator shall notify applicants who are floodproofing nonresidential buildings that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).

9.2-3 Manufactured Homes

- (1) Anchoring must resist flotation, collapse or lateral movement, by providing over-the-top and frame ties to ground anchors in accordance with the following:
 - (i) require that over-the-top ties be provided at each of the four corners of the manufactured dwelling, with two (2) additional ties per side at intermediate locations. Manufactured dwellings less than fifty (50) feet long require only one additional tie per side;
 - (ii) require that frame ties be provided at each corner of the dwelling with five (5) additional ties per side at intermediate points. Manufactured dwellings less than fifty (50) feet long require only four (4) additional ties per side;
 - (iii) allow a manufactured dwelling to utilize only frame ties if:

- or;
- (a) the dwelling was constructed in compliance with the Oregon Mobile Home Code in effect between 1972 and 1976 and bears a label to that effect;
 - (b) the dwelling was constructed in compliance with the "National Manufactured Housing Construction and Safety Standards Act";
 - (c) the dwelling is multisectional (double-wide or greater)
 - (d) the ground upon which the dwelling is located is at an elevation above the base flood level.
- (iv) all components of the anchoring system must be capable of carrying a force of four-thousand-eight-hundred (4,800) pounds; and
 - (v) any additions to the manufactured dwelling must be similarly anchored.
- (2) Manufactured homes shall be elevated and anchored according to the following standards:
- (i) Manufactured homes placed outside manufactured home parks/subdivisions or within expanded parks/subdivisions, must be elevated so the lowest floor is one (1) foot above base flood elevation, and anchored to a permanent foundation to prevent flotation, collapse, and lateral movement;
 - (ii) There are two options for manufactured homes placed within an existing park/subdivision: (1) meet the requirements in (i) or (2) elevate the manufactured home's chassis on reinforced concrete piers or other foundation system of equivalent strength, no less than three (3) feet above grade and meet the anchoring requirements in (i).
 - (iii) All manufactured homes that have incurred substantial damage from a 100-year flood or ocean storm must be elevated so that the lowest floor is at least one (1) foot above base flood elevation.
 - (iv) Parks or Subdivisions are required to have evacuation plans for residents of existing manufactured home parks or subdivisions. These plans are to be developed by the individual park owners. The complexity of the plan would depend on the severity of potential flood damage and the amount of warning time available. The plans are to be filed with the appropriate county emergency management authority.

9.2-4 Recreation Vehicles

- (1) Recreation vehicles within a permitted RV Park placed on sites within the 100-year floodplain must:
 - (i) be on site for fewer than 180 consecutive days or

- (ii) be fully licensed and highway ready, or meet the elevation and anchoring requirements for manufactured homes.
- (2) A recreation vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (3) Recreational Vehicles outside Recreational Vehicle parks in areas of special flood hazard must meet requirements in 9.2-4(1) above.

9.2-5 Development in Coastal High Hazard Areas

- (1) All new construction shall be located landward of the reach of mean high tide.
- (2) Residential developments and commercial and industrial buildings on beaches, active foredunes, on other foredunes that are subject to ocean flooding, undercutting or wave overtopping is prohibited. Excepted from this prohibition is residential development in any subdivision which, on October 8, 1991, was inside an acknowledged urban growth boundary, was serviced by roads and water and electrical utilities, and was developed with five or more residential dwellings. Further residential development in such a subdivision shall conform to the standards in Section 9.2-5 (2) through (5) of this ordinance.
- (3) Any substantial alteration, repair, reconstruction or improvement to a pre-existing structure started after enactment of the 1991 Curry County Flood Damage Prevention Ordinance shall:
 - (i) be elevated so that the bottom of the lowest horizontal supporting member is located no lower than two (2) feet above base flood elevation, with all space below the lowest supporting member open so as not to impede the flow of water, except for breakaway walls provided for in Section 9.2-5 (2)(iv).
 - (ii) be securely anchored on pilings or columns, designed and anchored so as to withstand all applied loads of the base flood velocity flow. The pile or column foundation and structure attached thereto is anchored to prevent flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values shall be those associated with the base flood. Wind loading values shall be those required by applicable state or local building standards.
 - (iii) use no fill material used for structural support,
 - (iv) allow breakaway walls, open wood lattice work or insect screening below the base flood elevation provided they are not a part of the structural support of the building and are

designed so as to break away under wind and water loads less than that which would occur during base flood without causing collapse, displacement, or other structural damage to the elevated portion of the building on which they are to be used. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values shall be those required by applicable state or local building standards.

- (a) If breakaway walls are utilized, such enclosed space shall not be used for human habitation.
 - (b) Shall require prior to construction, plans for any structure that will have breakaway walls must be submitted to the Flood Hazard Administrator for approval.
- (4) Other developments in these areas shall be permitted only if the findings demonstrate that the proposed development:
- (i) is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves, or is of minimal value; and
 - (ii) is designed to minimize adverse environmental effects
- (5) Compliance with provisions of Section 9.2-5 (2) and (3) shall be certified by a registered professional engineer or architect
- (6) There shall be no alteration of sand dunes which would increase potential flood damage.