



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

04/21/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Medford Plan Amendment
DLCD File Number 001-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, May 04, 2011

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

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

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: John Adam, City of Medford
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

APR 15 2011

LAND USE DIVISION
ADDED DIVISION
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 Medford*

Local file number: *DCA 10-099*

Date of Adoption: *4/7/2011*

Date Mailed: *4/12/2011*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: *1/7/2011*

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

City adopted flood damage prevention regulations that were based on DLCD's model ordinance. City also adopted new Flood Insurance Rate Maps (FIRMs).

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from: *N/A*

to: *N/A*

Zone Map Changed from: *N/A*

to: *N/A*

Location: *N/A*

Acres Involved: *N/A*

Specify Density: Previous: *N/A*

New: *N/A*

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-11 (18672) [16609]

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

F E M A

Local Contact: *John Adam, Planner IV* Phone: *(541) 774-2399* Extension:
Address: *200 S. Ivy Street* Fax Number: *541-774-2564*
City: *Medford, OR* Zip: *97501* E-mail Address: *john.adam@ci.medford.or.us*

ADOPTION SUBMITTAL REQUIREMENTS

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

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

ORDINANCE NO. 2011-64

AN ORDINANCE amending the Medford Code by adding Sections 9.701 through 9.707 and deleting portions of Section 10.012 pertaining to new flood damage prevention regulations and Flood Insurance Rate Maps.

WHEREAS, as part of the nationwide update to community flood maps, the Federal Emergency Management Agency (FEMA) is requiring jurisdictions to bring their flood damage prevention regulations up to date and the City desires to comply with the FEMA requirements by adopting the following amendments which shall be effective May 3, 2011; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. Section 9.701 is added to the Medford Code to read as follows:

9.701. Flood Damage Prevention—Purpose.

The purposes of Sections 9.701–9.707 are to:

- (1) Protect human life, health and property;
- (2) Minimize damage to public facilities and utilities, such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains;
- (3) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas;
- (4) Minimize expenditure of public money for costly flood-control projects;
- (5) Minimize the need for rescue, emergency services, and relief associated with flooding and generally undertaken at the expense of the general public;
- (6) Minimize prolonged business interruptions, unnecessary disruption of commerce, access and public service during times of flood;
- (7) Ensure that potential buyers are notified that property is in an Area of Special Flood Hazard;
- (8) Ensure that those who occupy the Areas of Special Flood Hazard assume responsibility for their actions, and;
- (9) Manage the alteration of Areas of Special Flood Hazard, stream channels and shorelines to minimize the impact of development on the natural and beneficial functions.

Section 2. Section 9.702 is added to the Medford Code to read as follows:

9.702. Flood Damage Prevention—Methods.

To accomplish its purposes, Sections 9.701–9.707 include methods and provisions to:

- (1) Require development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, to be protected against flood damage at the time of initial construction;
- (2) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

Control filling, grading, dredging and other development which may increase flood damage or erosion;

(3) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;

(4) Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store floodwaters, and;

(5) Coordinate with and supplement provisions of State of Oregon Specialty Codes enforced by the State of Oregon Building Codes Division.

Section 3. Section 9.703 is added to the Medford Code to read as follows:

9.703. Flood Damage Prevention — Definitions.

When used in Sections 9.701–9.707, the terms below shall have the meanings herein ascribed. Unless specifically defined below, words or phrases used in Sections 9.701–9.707 shall be interpreted according to the meaning they have in common usage.

Appeal. A request for review of the Floodplain Administrator's interpretation of provisions of Sections 9.701–9.707.

Basement. Any area of a building having its floor sub-grade (below ground level) on all sides.

Certification, No-Rise. A certification by a registered professional civil engineer that demonstrates, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that an encroachment will not result in any increase in flood levels affecting adjoining property during the occurrence of the Base Flood discharge.

Construction, New. A structure for which the "Start of Construction" commenced after May 3, 2011 and includes subsequent substantial improvements to the structure.

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

Crawlspace, Below-Grade. 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 four feet at any point.

Damage, Substantial. 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% of its market value before the damage occurred.

Datum. The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the National Geodetic Vertical Datum of 1929 (NAVD29). The vertical datum now used by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

Development. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the Area of Special Flood Hazard. Work exempt from Oregon Residential Specialty Code, Section R105.2 requires a Floodplain Development Permit unless specifically exempted by definition in Sections 9.701–9.707. Development does not include signs, markers, aids, etc. placed by a public agency to serve the public.

Dwelling, Manufactured or Manufactured Home. A structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Dwelling” does not include a “Recreational Vehicle.”

Elevation, Water Surface. The height, in relation to a specific datum, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Encroachment. The advancement or infringement of uses, fill, excavation, buildings, permanent structures, stream habitat restoration, or other development into a Floodway, which may impede or alter the flow capacity of a floodplain.

Building, Elevated. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Facility, Critical. See “Facility, Essential”.

Facility, Essential or Critical:

- a. Hospitals and other medical facilities having surgery and emergency treatment areas;
- b. Fire and police stations;
- c. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
- d. Emergency vehicle shelters and garages;

- e. Structures and equipment in emergency-preparedness centers;
- f. Standby power generating equipment for essential facilities; and,
- g. Structures and equipment in government communication centers and other facilities required for emergency response.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from (1) The overflow of inland or tidal waters; or (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood, Base. The flood having a 1.0% chance of being equaled or exceeded in any given year.

Flood Elevation, Base (BFE). The water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation is depicted on the Flood Insurance Rate Maps to the nearest foot and in the Flood Insurance Study to the nearest 0.1 foot. Same as "Design Flood Elevation".

Flood Hazard, Area of Special. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year (the area in which a base flood occurs). Zones designating Areas of Special Flood Hazard on Flood Insurance Rate Maps always include the letters A or V. Also known as the Special Flood Hazard Area.

Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Insurance Administration, delineating the Areas of Special Flood Hazard and/or risk premium zones applicable to the community.

Flood Insurance Rate Map, Digital (DFIRM). A map that depicts flood risk and zones, and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

Flood Insurance Study (FIS). The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, Regulatory Floodway boundaries and water surface elevations of the Base Flood.

Floodway. The channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge the Base Flood without cumulatively increasing the water surface elevation more than one foot. For the City of Medford, Bear Creek is the only watercourse with a Regulatory Floodway defined herein.

Floor, Lowest. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor, provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the Specialty Codes and Sections 9.701-9.707. The lowest floor of a manufactured dwelling is the bottom of the longitudinal chassis frame beam in A zones.

Grade, Highest Adjacent. The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate (FEMA Form 81-31) for more information.

Improvement, Substantial. Reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the Market Value of the structure before the "Start of Construction" of the improvement. This term includes structures which have incurred "Substantial Damage," regardless of the actual repair work performed.

The Market Value of the structure is:

- a. the real market value of the structure prior to the start of the initial repair or improvement; or
- b. in the case of damage, the real market value of the structure prior to the damage occurring.

The term "Substantial Improvement" does not include either:

- a. a project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or,
- b. alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a Historic Structure.

Letter of Map Change (LOMC). An official Federal Emergency Management Agency determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

Letter of Map Amendment (LOMA) A revision based on technical data showing that a property was inadvertently included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a Special Flood Hazard Area;

Letter of Map Revision (LOMR) A revision based on technical data showing, due to manmade alterations, changes to flood zones, flood elevations, or floodplain and Regulatory Floodway delineations. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the Base Flood Elevation and is excluded from the Special Flood Hazard Area;

Conditional Letter of Map Revision (CLOMR) A formal review and comment by the Federal Emergency Management Agency as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Mean Sea Level. For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

Specialty Codes. The combined specialty codes adopted under ORS 446.062, 446.185, 447.020(2), 455.020(2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730(1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS Chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220. The combined specialty codes are often referred to as building codes.

Structure. A walled and roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

Structure, Accessory. Same as definition of "Building, accessory" under Section 10.012.

Structure, Historic. A structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or;
 - ii. Directly by the Secretary of the Interior in states without approved programs.

Use, Water-Dependent. a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a dam or irrigation canal. The term does not include long-term storage, manufacture, sales, or service facilities.

Variance. A grant of relief from a requirement of Sections 9.701–9.706 by permitting construction in a manner that would otherwise be prohibited by said sections.

Vehicle, Recreational. A vehicle that 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 towed 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.

Violation. The failure of a structure or other development to be fully compliant with the floodplain management regulations of Sections 9.701–9.707. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

Watercourse. A lake, river, creek, stream, wash, arroyo, channel or other topographic feature in, on, through, or over which water flows at least periodically.

Section 4. Section 9.704 is added to the Medford Code to read as follows:

9.704. Flood Damage Prevention — General Provisions.

A. Applicability.

Sections 9.701–9.707 shall apply to all Areas of Special Flood Hazard within the jurisdiction of the City of Medford. Nothing in Sections 9.701–9.707 is intended to allow uses or structures that are otherwise prohibited by the Land Development Code or Specialty Codes.

B. Basis for Area of Special Flood Hazard.

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for the City of Medford dated May 3, 2011, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), are adopted by reference and declared a part of Sections 9.701–9.707. The FIS and the FIRM are on file at the offices of the City of Medford, 200 South Ivy Street.

C. Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division. Pursuant to the requirement established in ORS 455 that the City administers and enforces the State of Oregon Specialty Codes, the City of Medford does hereby acknowledge that the Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, Sections 9.701–9.707 is intended to be administered and enforced in conjunction with the Specialty Codes.

D. Requirement for a Floodplain Development Permit.

A Floodplain Development Permit shall be required prior to initiating development activities in any Areas of Special Flood Hazard established in Section 9.704(B).

E. Interpretation.

In the interpretation and application of Sections 9.701–9.707, all provisions shall be:

- (1) Considered as minimum requirements; and,
- (2) Deemed neither to limit nor repeal any other powers granted under state statutes, including state Specialty Codes.

F. Warning and Disclaimer of Liability.

The degree of flood protection required by Sections 9.701–9.707 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside Areas of Special Flood Hazard 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 Medford or any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on Sections 9.701–9.707 or an administrative decision lawfully made hereunder.

Section 5. Section 9.705 is added to the Medford Code to read as follows:

9.705. Flood Damage Prevention Regulations—Administration.

A. Designation of Floodplain Administrator.

The Building Official is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of Sections 9.701–9.707.

B. Duties and Responsibilities of the Floodplain Administrator.

Duties of the Floodplain Administrator shall include, but not be limited to:

- (1) Review all proposed development to determine whether it will be located in Areas of Special Flood Hazard or other flood-prone areas;
- (2) Review applications for new development or modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of Sections 9.701–9.707;
- (3) Review proposed development to ensure that necessary permits have been received from governmental agencies from which approval is required by Federal or state law. Copies of such permits shall be maintained on file;
- (4) Review all development permit applications to determine if proposed development is located in the Regulatory Floodway, and if so, ensure that the encroachment standards of Subsection 9.706.B, Development in Regulatory Floodways, are met.
- (5) When Base Flood Elevation data have not been established in Subsection 9.704.B, Basis for Area of Special Flood Hazard, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and Floodway data available from a Federal, state or other authoritative source in order to administer the provisions of Sections 9.701–9.707;
- (6) When Base Flood Elevations are not available from an authoritative source, the Floodplain Administrator shall require Base Flood Elevations to be developed in accordance with Paragraph 9.706(A)(2);
- (7) When a determination is needed of the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make a determination. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the determination per Section 10.051;
- (8) Issue Floodplain Development Permits when the provisions of Sections 9.701–9.707 have been met, or deny the same in the event of noncompliance;
- (9) Ensure that applications for building permits comply with the requirements of Sections 9.701–9.707;
- (10) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective Flood Insurance Rate Map, or, in relation to the highest adjacent grade where no Base Flood Elevation is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures, including manufactured dwellings;
- (11) Obtain, verify and record the actual elevation of finished construction, in relation to the vertical datum used on the effective Flood Insurance Rate Map, or highest adjacent grade where no Base Flood Elevation is available, to which any new or

substantially improved non-residential buildings or structures have been flood proofed. When flood proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of elevation to which the structure was flood proofed from a registered professional engineer or land surveyor;

- (12) Ensure that all records and certifications pertaining to the provisions of Sections 9.701–9.707 are permanently maintained in the City of Medford Building Safety Department and available for public inspection;
- (13) Make periodic inspections of Areas of Special Flood Hazard to establish that development activities are being performed in compliance with Sections 9.701–9.707, and to verify that existing buildings and structures maintain compliance with Sections 9.701–9.707;
- (14) Inspect areas where buildings and structures in Areas of Special Flood Hazard have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure; and,
- (15) Make substantial improvement and substantial damage determinations for all structures located in Areas of Special Flood Hazard.

C. Floodplain Development—Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator or designee on forms furnished by the Floodplain Administrator or designee prior to starting development activities. Specifically, the following information is required:

- (1) Application Stage.
 - a. Plans drawn to scale, with elevations of the project area, and the nature, location, and dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities;
 - b. Delineation of Areas of Special Flood Hazard, Regulatory Floodway boundaries including Base Flood Elevations, or flood depth in AO zones, where available;
 - c. For all proposed structures, elevation of the lowest enclosed area in relation to the highest adjacent grade and the Base Flood Elevation (or flood depth in AO zones), including crawlspace or basement, elevation of the top of the proposed garage slab, if any, and elevation of the next highest floor.
 - d. Locations and sizes of all flood openings, if required, in any proposed building;
 - e. Elevation to which a non-residential structure will be flood-proofed;
 - f. Certification from a registered professional engineer that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the National Flood Insurance Program (NFIP) and Specialty Codes;
 - g. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;
 - h. Proof that application has been made for necessary permits from other governmental agencies from which approval is required by Federal or state law.

- (2) Construction Stage.
 - a. Copies of all necessary permits from other governmental agencies from which approval is required by Federal or state law shall be provided prior to start of construction.
 - b. Development activities shall not begin without an approved Floodplain Development Permit;
 - c. For all new construction and substantial improvements, the Floodplain Development permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction; and,
 - d. Any deficiencies identified by the Floodplain Administrator shall be corrected by the Floodplain Development Permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.
- (3) Certificate of Occupancy.
 - a. In addition to the requirements of the Specialty Codes pertaining to Certificate of Occupancy, and prior to the final inspection, the owner or authorized agent shall submit the following documentation for finished construction that has been signed and sealed by a registered surveyor or engineer:
 - i. For elevated buildings and structures in Areas of Special Flood Hazard (all A zones), the elevation of the lowest floor, including basement or, where no Base Flood Elevation is available, the height above highest adjacent grade of the lowest floor; and,
 - ii. For non-residential buildings and structures that have been flood proofed, the elevation to which the building or structure was flood proofed.
 - b. Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a Certificate of Occupancy until such deficiencies are corrected.
- (4) Expiration of Floodplain Development Permit. A Floodplain Development Permit shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing.

D. Watercourse Alterations.

- (1) Development shall not diminish the flood-carrying capacity of a watercourse. If any watercourse will be altered or relocated as a result of the proposed development, the applicant must submit certification by a registered professional engineer that the flood-carrying capacity of the watercourse will not be diminished.
- (2) The applicant shall be responsible for obtaining all necessary permits from governmental agencies from which approval is required by Federal or state law,

including, but not limited to, Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1334); the Endangered Species Act of 1973 (16 USC 1531-1544); and State of Oregon Department of State Lands regulations.

- (3) If the altered or relocated watercourse is part of an Area of Special Flood Hazard, the applicant shall notify other affected jurisdictions and Oregon Department of Land Conservation and Development (the NFIP Coordinating Agency for Oregon) prior to any alteration or relocation of the watercourse. Evidence of notification must be submitted to the Floodplain Administrator and to the Federal Emergency Management Agency as set forth in Section 9.705(E) below.
- (4) The applicant shall be responsible for ensuring necessary maintenance for the altered or relocated portion of the watercourse is provided so that the flood-carrying capacity will not be diminished.
- (5) The applicant shall meet the requirements to submit technical data in Section 9.705(E) below, when an alteration of a watercourse results in the expansion, relocation or elimination of the Special Flood Hazard Area.

E. Requirement to Submit New Technical Data.

- (1) Within six months of project completion, an applicant who obtains an approved Conditional Letter of Map Revision from the Federal Emergency Management Agency (FEMA), or whose development alters a watercourse that is part of an Area of Special Flood Hazard, or modifies floodplain boundaries or Base Flood Elevations, shall obtain from FEMA a Letter of Map Revision reflecting the as-built changes to the Flood Insurance Rate Map.
- (2) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- (3) Applicants shall be responsible for all costs associated with obtaining a Conditional Letter of Map Amendment or Letter of Map Revision from FEMA.
- (4) When the applicant has demonstrated that the project will or has met all applicable requirements of this section, the Floodplain Administrator may sign the Community Acknowledgement Form, which is part of the Conditional Letter of Map Amendment or Letter of Map Revision application.

F. Non-Conversion of Enclosed Areas Below the Lowest Floor.

To ensure that enclosed areas below the lowest floor continue to be used solely for parking vehicles, limited storage, or access to the building, and not be finished for use as human habitation, the Floodplain Administrator shall:

- (1) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are five feet or higher; and
- (2) Require those applicants to enter into a "Non-Conversion Deed Declaration for Construction Within Flood Hazard Areas" or equivalent, with the City of Medford. The deed declaration shall be recorded with Jackson County. The deed declaration shall be in a form acceptable to the Floodplain Administrator and City Attorney.

Section 6. Section 9.706 is added to the Medford Code to read as follows:

9.706. Flood Damage Prevention Regulations—Flood Hazard Reduction Provisions.

A. Site Improvements and Subdivisions.

All plans and permits for new site improvements, subdivisions, and manufactured home parks shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes such things as historical data, high water marks, and photographs of past flooding.

- (1) Building lots shall have adequate buildable area outside of Floodways.
- (2) Where Base Flood Elevation data has not been provided or is not available from another authorized source, it shall be generated for land division proposals and other proposed developments.
- (3) New site improvements, subdivisions, and manufactured home parks shall have public utilities and facilities, such as sewer, gas, electric and water systems, located and constructed to minimize or eliminate damage and infiltration of floodwaters. Replacement public utilities and facilities, such as sewer, gas, electric and water systems, likewise, shall be sited and designed to minimize or eliminate damage and infiltration of floodwaters.
- (4) New and replacement onsite waste disposal systems and sanitary sewerage systems shall be located and constructed to avoid functional impairment, or discharges from them, during flooding.
- (5) Subdivisions and manufactured home parks shall have adequate drainage provided to reduce exposure to flood hazards. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

B. Development in Regulatory Floodway

- (1) Encroachments are prohibited in the Regulatory Floodway unless a registered professional civil engineer provides a No-Rise Certification.
- (2) Any fill permitted to be placed in the Regulatory Floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.
- (3) Before the City will permit an encroachment in the Regulatory Floodway that will cause any increase in the base flood elevation, applicants shall obtain a Conditional Letter of Map Revision from the Federal Emergency Management Agency, unless the development causes a temporary encroachment and the conditions in (4), below, are satisfied.
- (4) Temporary encroachments in the Regulatory Floodway for the purposes of capital improvement projects (including bridges) require a Floodplain Development Permit. A conditional or final Letter of Map Revision shall not be required. Up to a one-foot rise in the base flood elevation shall be allowed due to temporary encroachments associated with capital improvement projects, when:
 - a. The project is limited as to duration, with the days and dates that the structure or other development will be in the Regulatory Floodway specified in the Floodplain Development Permit;

- b. Accessory structures (i.e. construction trailers) are restricted from the Regulatory Floodway;
 - c. The project limits placement of equipment and material in the Regulatory Floodway to that which is absolutely necessary for the purposes of the project;
 - d. The project includes a flood warning system sufficient to allow equipment to be evacuated from the Regulatory Floodway and placed outside the Area of Special Flood Hazard in the event of imminent flood;
 - e. The project applicant identifies any insurable structures affected by temporary changes to the Area of Special Flood Hazard or Base Flood Elevation and notifies owners of any increased risk of flooding; and,
 - f. The project applicant is provided with written notification that they may be liable for any flood damages resulting from the temporary encroachment.
- C. Zones with Base Flood Elevations but No Regulatory Floodway.
- (1) In areas within Zone AE on the community's FIRM where no Regulatory Floodway has been designated, the floodway is the channel of the stream. Encroachments shall be prohibited in the channel or floodway unless all the provisions of 9.706.B are satisfied.
 - (2) In Areas of Special Flood Hazard, encroachments shall be prohibited 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.
 - (3) Applicants of proposed projects that increase the Base Flood Elevation more than one foot shall obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted. As soon as possible, but no later than six months after project completion, an application for a Letter of Map Revision (LOMR) shall be submitted by the applicant to FEMA. The applicant is responsible for paying any costs associated with the CLOMR and LOMR process.
- D. Areas of Special Flood Hazard without Base Flood Elevations.
- (1) When Areas of Special Flood Hazard have been provided, but Base Flood Elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and/or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and utilize scientific or historic Base Flood Elevation and Regulatory Floodway data available from a Federal, state, or other source, in order to administer these regulations. If Base Flood Elevations are not available, subsection (3) below shall apply.
 - (2) Where the Floodplain Administrator has obtained Base Flood Elevation data, Section 9.706(C) and 9.706(E) through (K) shall apply.
 - (3) In Areas of Special Flood Hazard without Base Flood Elevation data no encroachments shall be located in an Area of Special Flood Hazard within an area equal to the width of the stream or 50 feet, whichever is greater, measured from the ordinary high water mark of the stream, unless a Base Flood Elevation is developed by a licensed professional engineer.

E. Building Design and Construction

Buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes.

F. Below-Grade Crawlspace.

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

- (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Subsection (2) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (2) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.
- (3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (5) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.
- (6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel/crushed stone drainage by gravity or mechanical means.

- (8) The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

G. Recreational Vehicles.

In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the land development code must:

- (1) Be placed on the site for fewer than 180 consecutive days; or,
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition.

H. Essential Facilities.

Construction of new essential facilities shall be located outside the limits of the Area of Special Flood Hazard, except that construction of new essential facilities shall be permissible within the Area of Special Flood Hazard if no feasible alternative site is available. Flood proofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality 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 essential facilities to the maximum extent possible.

I. Tanks.

New and replacement tanks in an Area of Special Flood Hazard shall either be elevated above the Base Flood Elevation on a supporting structure designed to prevent flotation, collapse or lateral movement during conditions of the base flood, or be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the Design Flood.

New and replacement tank inlets, fill openings, outlets and vents shall be placed a minimum of two feet above Base Flood Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the Design Flood.

J. Fences and Walls

New and replacement fencing in an Area of Special Flood Hazard shall be designed to collapse under conditions of the Base Flood or to allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass freely.

K. Other Development, including Accessory Structures, in High Hazard Areas.

All development in high hazard areas (all A zones) for which provisions are not specified in Sections 9.701–9.707 or building codes, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Be designed so as not to impede flow of floodwaters under Base Flood conditions;
- (3) If located in a Regulatory Floodway, meet the limitations of Section 9.706.B;
- (4) Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (5) Be constructed of flood damage-resistant materials;

- (6) Have electric service and or mechanical equipment elevated above the Base Flood Elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements;
- (7) Relief from elevation or dry flood-proofing standards may be granted for new and replacement, or substantially improved accessory structures containing no more than 200 square feet; larger than 200 square feet, building codes apply. Such a structure must meet (1) through (6) of this Subsection, and, in addition, shall meet the following standards:
 - a. It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;
 - b. Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below Base Flood Elevation, or where no Base Flood Elevation is available, lower than three feet above grade, unless confined in a tank installed in compliance with this section;
 - c. It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect, or:
 - i. Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening; and,
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

Section 7. Section 9.707 is added to the Medford Code to read as follows:

9.707. Flood Damage Prevention—Variance.

Variances from the provisions of Sections 9.701–9.706 may be permitted when there are practical difficulties or unnecessary hardships created in carrying out the provisions. The basis for a variance shall be the physical circumstances or characteristics of a lot; a variance shall not be based on the inhabitants or owners of the property, their economic or financial circumstances, or the condition or situation of structures on the property. The burden is on the applicant to show that the variance is warranted and meets the approval criteria set out herein.

The provisions of this section are not the same as, nor to be confused with, provisions for Exceptions in the Land Development Code.

A variance may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties without regard to the procedures set forth in this section.

A. Variance—Procedure.

- (1) An application for a variance from the Flood Damage Prevention regulations must be submitted to the Floodplain Administrator on the form provided by the City and shall include, at a minimum, the same information required for a Floodplain Development Permit, and an explanation of the basis for the request for a variance.
- (2) Variance requests will be heard by the Planning Commission and be processed in the manner of a Class-C application, using the Class-C procedural requirements in Chapter 10, Article II of the Municipal Code. City will use the same referral agency notification list as is used for Exceptions (Section 10.146).
- (3) Upon consideration of the approval criteria in Subsection B, below, and the purposes of this section, and finding that the approval criteria can be met, the City approving authority may approve the request and attach such conditions to the granting of a variance as it deems necessary to further the purposes of these regulations.
- (4) The Floodplain Administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

B. Variance—Approval Criteria.

- (1) A variance shall not be issued within a Floodway if any increase in flood levels during the Base Flood discharge would result.
- (2) A variance shall only be issued upon the:
 - a. Determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - b. Showing of good and sufficient cause;
 - c. Determination that failure to grant a variance from these regulations would result in exceptional hardship to the applicant; and,
 - d. Determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, or extraordinary public expense; or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) In approving a variance, the City approving authority shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger to life and property due to flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. Compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
 - i. Safety of access to the property in times of flood for ordinary and emergency

- vehicles;
 - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, expected at the site; and,
 - k. 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.
- (4) A variance may be issued for a water-dependent use provided that:
- a. the criteria of subsections (1) through (3) of this section are met; and,
 - b. the structure or other development is protected by methods that minimize flood damages during the Base Flood and that create no additional threats to public safety.

C. Variance—Decision.

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval or denial. If the variance is granted, the property owner shall be put on notice, along with the written decision, that the permitted building will have its lowest floor below the Base Flood Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

Section 8. Section 10.012 of the Medford Code is amended to read as follows:

10.012 Definitions, Specific.

* * *

~~Filling 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, area of special flood hazard means land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.~~

~~Flood, base, means the flood having a one percent chance of being equaled or exceeded in any given year.~~

~~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.~~

~~***~~

~~Habitable floor, means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".~~

~~***~~

PASSED by the Council and signed by me in authentication of its passage this 7 day of April, 2011.

ATTEST: Blenda Wilson
City Recorder

[Signature]
Mayor

APPROVED April 7, 2011.

[Signature]
Mayor



CITY OF MEDFORD

PLANNING DEPARTMENT

STAFF REPORT—CODE AMENDMENT

DATE: 7 April 2011

TO: Mayor and City Council

FROM: John Adam, AICP, Planner IV JA

REVIEWER: Suzanne Myers, AICP, Principal Planner *sm*

SUBJECT: Municipal Code Amendment—Adoption of Flood Damage Prevention Regulations and Flood Insurance Rate Maps (file no. DCA 10-099)

BACKGROUND

Proposal: Amend Chapter 9 of the Municipal Code to include Flood Damage Prevention regulations (new sections 9.701 – 9.707) and to adopt new Flood Insurance Rate Maps and the Flood Insurance Study they are based on. There are also amendments to Chapter 10, section 10.012, to remove redundant definitions concerning flood damage prevention.

History: The Federal Emergency Management Agency updated the flood insurance studies in this region within the last few years and then produced new Flood Insurance Rate Maps (FIRMs) based on the study. The Agency completed a public review period on the maps last November and set 3 May 2011 as the date they become effective. The Planning Commission held a hearing on 24 February 2011 and voted 8–0 to recommend adoption.

Approval
Criteria: MLDC 10.184(2) Land Development Code Amendment

Authority: The City Council is authorized to approve amendments to the Municipal Code, and specifically for Chapter 10 of the Municipal Code, under Sections 10.102, 10.110, 10.111, and 10.122.

ANALYSIS — CRITERIA COMPLIANCE

10.184 (2) Land Development Code Amendment. The Planning Commission shall base its recommendation and the City Council its decision on the following criteria:

Criterion: 10.184 (2)(a) Explanation of the public benefit of the amendment.

Finding: Congress created the National Flood Insurance Program (NFIP) in 1968 as an alternative to taxpayer-funded disaster relief for flood victims. The program enables property owners in participating communities to purchase flood insurance as financial protection against flood losses. In exchange, communities adopt

floodplain management regulations designed to reduce flood risks and future flood damage.

The proposed regulations are not greatly different from those now being enforced by the Building Department under the authority of the Specialty Codes. Also, the new maps have slightly fewer acres and properties within the 100-year floodplain.

Specific duties of the City that benefit the public include:

- Requiring permits for any development (manmade changes to improved or unimproved land, including buildings and other structures, mining, dredging, filling, grading, paving, excavation, and drilling) within floodplains.
- Reviewing building permit applications for new construction and substantial improvement to existing development within floodplains, and ensuring that specific measures (for example, elevation, anchoring, flood proofing, installation of flood vents or breakaway walls, etc.) are taken to avoid or reduce flood damage.
- Obtaining elevation and flood proofing certifications for new development and substantial improvements to existing development.
- Ensuring that encroachments into the floodway portions of the base floodplain are prohibited if there would be any increase in flood levels.
- Notifying permit applicants that state and Federal permits may be required (for example, wetland fill permits, permits for work in navigable waterways, etc.), and ensuring that applicants obtain these required state and Federal permits.
- Maintaining permit records and related materials, and ensuring that these documents are available for public, state, and Federal inspection.
- Educating citizens about local flood hazards and local floodplain regulations.

Conclusion: This approval criterion, explanation of the public benefit of the amendment, has been met.

Criterion: 10.184 (2)(b) The justification for the amendment with respect to the following factors:

10.184 (2)(b)(1) Conformity with applicable Statewide Planning Goals and Guidelines.

Findings: The following demonstrates conformity with the applicable Statewide Planning Goals:

1. Citizen Involvement:

The City is working off of a model code promulgated by the Federal Emergency Management Agency via the State of Oregon. Participation is limited to the opportunity to comment and testify regarding the adoption of the regulations. The Citizens' Planning Advisory Committee (CPAC) reviewed this proposal on February 22, 2011 and forwarded no formal comments. In addition to notifying builders and developers, the City mailed out notices to 923 property owners covering approximately 1,200

- lots. The Building Department has taken more than 330 phone calls and spoken to over two dozen people at the counter concerning the revised floodplain maps and the proposed regulations.
2. Land Use Planning: The amendment will not interfere with, modify, or affect the City's planning process. The City is adopting the regulations as a land-use action.
 3. Agricultural Lands: Does not apply.
 4. Forest Lands: Does not apply.
 5. Natural Resources, Scenic & Historic Areas, and Open Spaces:

Does not apply.
 6. Air, Water, & Natural Resources Quality:

This Goal concerns managing the discharge of pollutants and waste from development, which does not apply to the proposed regulations.
 7. Areas Subject to Natural Disasters:

The purpose of this goal is "To protect people and property from natural hazards." Section C. 4. of the goal states "Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum National Flood Insurance Program (NFIP) requirements." The regulations being considered for adoption were designed by the Department of Land Conservation and Development to meet the minimum NFIP requirements.
 8. Recreation Needs: Does not apply; the proposed code amendment has nothing to do with how recreation needs are met.
 9. Economic Development: Commercial uses located in floodplains will be subject to standards that minimize or prevent substantial damage due to flooding, thereby protecting commerce.
 10. Housing: The proposed regulations do not alter the provision of housing in the City, but housing located in floodplains will be subject to standards that minimize or prevent substantial damage due to flooding, thereby protecting the general health, safety, and welfare.
 11. Public Facilities & Services: The proposed regulations require new critical facilities and services to be located outside the Special Flood Hazard Area unless no other feasible alternative exists. Adoption of the regulations will not create an increased demand for facilities and services that are not already available.

12. Transportation: The proposal does not alter or affect existing or planned facilities and does not affect the Transportation System Plan. The regulations will ensure adequate review of transportation projects located in Areas of Special Flood Hazard.
13. Energy Conservation: Does not apply.
14. Urbanization: Does not apply because it does not address the supply of commercial land in the urban growth boundary, nor is it expected to impact the supply.

Goals 15–19 apply only to other regions of the State.

Conclusion: This approval criterion, conformity with applicable Statewide Planning Goals, has been met.

Criterion: 10.184(2)(b)(2) Conformity with goals and policies of the Comprehensive Plan considered relevant to the decision.

Findings: The findings below demonstrate conformity with the goals and policies of the Comprehensive Plan considered relevant to the decision:

Environmental Element, Goal 12: To protect the citizens of Medford from the potential damage caused by hazards such as flooding, earthquakes, noise, wild-fires, and airport hazards.

Environmental Element, Policy 12-A: The City of Medford shall assure that hazard mitigation standards are formally adopted as public policy through comprehensive planning, land development ordinances, permit review, and fire/building safety codes.

Environmental Element, Policy 12-B: The City of Medford shall ensure that the potential impacts of flooding are adequately analyzed when considering development projects.

Environmental Element, Implementation 12-B (1): Maintain and, when necessary, update the city's requirements for development in floodplains, consistent with federal and state regulations, and the Uniform Building Code (UBC).

Environmental Element, Implementation 12-B (3): Encourage the re-mapping of flood-prone areas in Medford using data from the most recent flood(s) of record.

Environmental Element, Implementation 12-B (4): Consider flood hazards when installing public improvements such as parks and paths in flood-prone areas. Design these amenities to withstand a certain flood level.

The code amendment conforms to the goals, policies, and implementation strategies of the Environmental Element by providing a means to protect the citizens of Medford, by requiring analysis of the flood impacts of development projects, by improving requirements for development in floodplains, by adopting a new set of flood hazard maps based on the latest Flood Insurance Study, and by requiring careful review of public improvement projects in hazard areas.

Conclusion: This approval criterion, conformity with the goals and policies of the Comprehensive Plan considered relevant, has been met.

Criterion: 10.184(2)(b)(3) Comments from applicable referral agencies regarding applicable statutes or regulations.

Finding: Department of Land Conservation and Development made a few recommendations prior to the Planning Commission hearing, which were received too late to incorporate into the draft prepared for that hearing. The recommendations were for clarification in sections that staff had changed from the model draft. Staff explained this to the Planning Commission and asked for its positive recommendation despite knowing that there would be a few changes to the draft. The Commission assented to the request. Staff also lately discovered an omission in the draft wherein the Commission is named as the hearing body for floodplain variances, which is the natural choice. The Commission will be informed of this addition to their duties at an upcoming study session.

Conclusion: This approval criterion has been met. If comments are received from referral agencies prior to Council decision, such comments will be addressed.

Criterion: 10.184(2)(b)(4) Public comments. The findings below respond to public comments:

Comment: Georgia and David Nowlin wrote objecting to the phrase [in italics] in 9.704.E (2): "In the interpretation and application of Sections 9.701–9.710, all provisions shall be: ...*(2) Liberally construed in favor of the governing body,*..." According to Mrs. Nowlin, it establishes a bias that favors the city over its citizens.

Finding: The phrase in question means that the regulations should be broadly applied—rather than restrictively or technically applied according to the precise language of the regulations—to effect their purposes. The presumption underlying enactment of this legislative proposal is that it will better protect lives and property; it stands to reason that the City would reserve latitude in applying the regulations. However, it is also true that the City should administer all its regulations in the same manner—not liberally in one case and narrowly in another—so making a point of it in this set of regulations is unnecessary and misleading. Such was the view of the Planning Commission. The phrase was removed.

Comment: Robert Forrest is opposed to regulations because they will possibly restrict the use of his property. He also disagrees with the map of the base flood zone. There were a few other letters of the same nature.

Finding: It is true that the regulations will—by design—place restrictions on certain structures. It also bears repeating that the provisions are not new; the Building Safety Department has been enforcing much the same regulations for many years. Additionally, this person's property has always been partially in the base floodplain. On the matter of map accuracy, the floodplain administrator has directed Mr. Forrest to contact FEMA since the maps are not in the City's control.

Conclusion: This approval criterion has been met. If additional public comments are received prior to Council decision, such comments will be addressed.

Criterion: 10. 184(2)(b)(5) Applicable governmental agreements.

Finding: No governmental agreements apply to the proposed code amendment.

Conclusion: This approval criterion has been met.

RECOMMENDED ACTION

The Planning Commission, at their meeting of February 24, 2011, found that the approval criteria are met, and voted to recommend that the City Council adopt the Flood Damage Prevention Regulations, Flood Insurance Rate Maps and Flood Insurance Study effective May 3, 2011 (file no. DCA 10-099) per the findings and conclusions of the Staff Report dated 4/7/2011, including Exhibits A through C.

EXHIBITS

- A** Proposed Code Amendment (Note: The Flood Insurance Rate Maps and Flood Insurance Study are on file at the offices of the City of Medford, 200 South Ivy Street)
- B** Public Comments received as of March 22, 2011
- C** Minutes of the Planning Commission meeting of February 24, 2011

CITY COUNCIL AGENDA: 7 April 2011

Exhibit A

Code Amendment Proposal

Part 1: Addition to Chapter 9 of the Municipal Code
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9.701. FLOOD DAMAGE PREVENTION—PURPOSE.

The purposes of Sections 9.701–9.707 are to:

Protect human life, health and property;

Minimize damage to public facilities and utilities, such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, and streets and bridges located in floodplains;

Help maintain a stable tax base by providing for the sound use and development of flood-prone areas;

Minimize expenditure of public money for costly flood-control projects;

Minimize the need for rescue, emergency services, and relief associated with flooding and generally undertaken at the expense of the general public;

Minimize prolonged business interruptions, unnecessary disruption of commerce, access and public service during times of flood;

Ensure that potential buyers are notified that property is in an Area of Special Flood Hazard;

Ensure that those who occupy the Areas of Special Flood Hazard assume responsibility for their actions, and;

Manage the alteration of Areas of Special Flood Hazard, stream channels and shorelines to minimize the impact of development on the natural and beneficial functions.

9.702. FLOOD DAMAGE PREVENTION—METHODS.

To accomplish its purposes, Sections 9.701–9.707 include methods and provisions to:

Require development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, to be protected against flood damage at the time of initial construction;

Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;

Control filling, grading, dredging and other development which may increase flood damage or erosion;

Exhibit A

Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;

Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store floodwaters, and;

Coordinate with and supplement provisions of State of Oregon Specialty Codes enforced by the State of Oregon Building Codes Division.

9.703. FLOOD DAMAGE PREVENTION— DEFINITIONS.

When used in Sections 9.701–9.707, the terms below shall have the meanings herein ascribed. Unless specifically defined below, words or phrases used in Sections 9.701–9.707 shall be interpreted according to the meaning they have in common usage.

Appeal. A request for review of the Floodplain Administrator's interpretation of provisions of Sections 9.701–9.707.

Basement. Any area of a building having its floor sub-grade (below ground level) on all sides.

Certification, No-Rise. A certification by a registered professional civil engineer that demonstrates, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that an encroachment will not result in any increase in flood levels during the occurrence of the Base Flood discharge

Construction, New. A structure for which the "Start of Construction" commenced after May 3, 2011 and includes subsequent substantial improvements to the structure.

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

Crawlspace, Below-Grade. 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 four feet at any point.

Damage, Substantial. 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% of its market value before the damage occurred.

Datum. The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the National Geodetic Verti-

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cal Datum of 1929 (NAVD29). The vertical datum now used by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

Development. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the Area of Special Flood Hazard. Work exempt from Oregon Residential Specialty Code, Section R105.2 requires a Floodplain Development Permit unless specifically exempted by definition in Sections 9.701–9.707. Development does not include signs, markers, aids, etc. placed by a public agency to serve the public.

Dwelling, Manufactured or Manufactured Home. A structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Dwelling” does not include a “Recreational Vehicle.”

Elevation, Water Surface. The height, in relation to a specific datum, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Encroachment. The advancement or infringement of uses, fill, excavation, buildings, permanent structures, stream habitat restoration, or other development into a Floodway, which may impede or alter the flow capacity of a floodplain.

Building, Elevated. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Facility, Critical. See “Facility, Essential”.

Facility, Essential or Critical:

- a. Hospitals and other medical facilities having surgery and emergency treatment areas;
- b. Fire and police stations;
- c. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
- d. Emergency vehicle shelters and garages;
- e. Structures and equipment in emergency-preparedness centers;
- f. Standby power generating equipment for essential facilities; and,
- g. Structures and equipment in government communication centers and other facilities required for emergency response.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from (1) The overflow of inland or tidal waters; or (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood, Base. The flood having a 1.0% chance of being equaled or exceeded in any given year.

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Flood Elevation, Base (BFE). The water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation is depicted on the Flood Insurance Rate Maps to the nearest foot and in the Flood Insurance Study to the nearest 0.1 foot. Same as "Design Flood Elevation".

Flood Hazard, Area of Special. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year (the area in which a base flood occurs). Zones designating Areas of Special Flood Hazard on Flood Insurance Rate Maps always include the letters A or V. Also known as the Special Flood Hazard Area.

Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Insurance Administration, delineating the Areas of Special Flood Hazard and/or risk premium zones applicable to the community.

Flood Insurance Rate Map, Digital (DFIRM). A map that depicts flood risk and zones, and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

Flood Insurance Study (FIS). The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, Regulatory Floodway boundaries and water surface elevations of the Base Flood.

Floodway. The channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge the Base Flood without cumulatively increasing the water surface elevation more than one foot. For the City of Medford, Bear Creek is the only watercourse with a Regulatory Floodway defined herein.

Floor, Lowest. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor, provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the Specialty Codes and Sections 9.701–9.707. The lowest floor of a manufactured dwelling is the bottom of the longitudinal chassis frame beam in A zones.

Grade, Highest Adjacent. The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate (FEMA Form 81-31) for more information.

Improvement, Substantial. Reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the Market Value of the structure before the "Start of Construction" of the improvement. This term includes structures which have incurred "Substantial Damage," regardless of the actual repair work performed.

The Market Value of the structure is

- a. the real market value of the structure prior to the start of the initial repair or improvement; or
- b. in the case of damage, the real market value of the structure prior to the damage occurring.

The term "Substantial Improvement" does not include either:

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- a. a project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or,
- b. alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a Historic Structure.

Letter of Map Change (LOMC). An official Federal Emergency Management Agency determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

Letter of Map Amendment (LOMA) A revision based on technical data showing that a property was inadvertently included in a designated Special Flood Hazard Area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a Special Flood Hazard Area;

Letter of Map Revision (LOMR) A revision based on technical data showing, due to man-made alterations, changes to flood zones, flood elevations, or floodplain and Regulatory Floodway delineations. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the Base Flood Elevation and is excluded from the Special Flood Hazard Area;

Conditional Letter of Map Revision (CLOMR) A formal review and comment by the Federal Emergency Management Agency as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Mean Sea Level. For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

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

Structure. A walled and roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

Structure, Accessory. Same as definition of "Building, accessory" under 10.012.

Structure, Historic. A structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;

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- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or;
 - ii. Directly by the Secretary of the Interior in states without approved programs.

Use, Water-Dependent. a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a dam or irrigation canal. The term does not include long-term storage, manufacture, sales, or service facilities.

Variance. A grant of relief from a requirement of Sections 9.701–9.706 by permitting construction in a manner that would otherwise be prohibited by said Sections.

Vehicle, Recreational. A vehicle that 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 towed 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.

Violation. The failure of a structure or other development to be fully compliant with the floodplain management regulations of Sections 9.701–9.707. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until such time as that documentation is provided.

Watercourse. A lake, river, creek, stream, wash, arroyo, channel or other topographic feature in, on, through, or over which water flows at least periodically.

9.704. FLOOD DAMAGE PREVENTION—GENERAL PROVISIONS.

A. Applicability.

Sections 9.701–9.707 shall apply to all Areas of Special Flood Hazard within the jurisdiction of the City of Medford. Nothing in Sections 9.701–9.707 is intended to allow uses or structures that are otherwise prohibited by the Land Development Code or Specialty Codes.

B. Basis for Area of Special Flood Hazard.

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for the City of Medford dated May 3, 2011, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), are adopted by reference and declared a part of Sections 9.701–9.707. The FIS and the FIRM are on file at the offices of the City of Medford, 200 South Ivy Street.

C. Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division.

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Pursuant to the requirement established in ORS 455 that the City administers and enforces the State of Oregon Specialty Codes, the City of Medford does hereby acknowledge that the Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, Sections 9.701–9.707 is intended to be administered and enforced in conjunction with the Specialty Codes.

D. Requirement for a Floodplain Development Permit.

A Floodplain Development Permit shall be required prior to initiating development activities in any Areas of Special Flood Hazard established in Section 9.704.B.

E. Interpretation.

In the interpretation and application of Sections 9.701–9.707, all provisions shall be:

- (1) Considered as minimum requirements; and,
- (2) Deemed neither to limit nor repeal any other powers granted under state statutes, including state Specialty Codes.

F. Warning and Disclaimer of Liability

The degree of flood protection required by Sections 9.701–9.707 is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside Areas of Special Flood Hazard 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 Medford or any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on Sections 9.701–9.707 or an administrative decision lawfully made hereunder.

9.705. FLOOD DAMAGE PREVENTION REGULATIONS—ADMINISTRATION.

A. Designation of Floodplain Administrator.

The Building Official is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of Sections 9.701–9.707.

B. Duties and Responsibilities of the Floodplain Administrator.

Duties of the Floodplain Administrator shall include, but not be limited to:

- (1) Review all proposed development to determine whether it will be located in Areas of Special Flood Hazard or other flood-prone areas;
- (2) Review applications for new development or modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of Sections 9.701–9.707;
- (3) Review proposed development to ensure that necessary permits have been received from governmental agencies from which approval is required by Federal or state law. Copies of such permits shall be maintained on file.
- (4) Review all development permit applications to determine if proposed development is located in the Regulatory Floodway, and if so, ensure that the encroach-

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ment standards of Subsection 9.706.B, Development in Regulatory Floodways, are met.

- (5) When Base Flood Elevation data have not been established in Subsection 9.704.B, Basis for Area of Special Flood Hazard, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and Floodway data available from a Federal, state or other authoritative source in order to administer the provisions of Sections 9.701–9.707.
- (6) When Base Flood Elevations are not available from an authoritative source, the Floodplain Administrator shall require Base Flood Elevations to be developed in accordance with Paragraph 9.706.A(2).
- (7) When a determination is needed of the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make a determination. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the determination per Section 10.051.
- (8) Issue Floodplain Development Permits when the provisions of Sections 9.701–9.707 have been met, or deny the same in the event of noncompliance;
- (9) Ensure that applications for building permits comply with the requirements of Sections 9.701–9.707;
- (10) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective Flood Insurance Rate Map, or, in relation to the highest adjacent grade where no Base Flood Elevation is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures, including manufactured dwellings;
- (11) Obtain, verify and record the actual elevation of finished construction, in relation to the vertical datum used on the effective Flood Insurance Rate Map, or highest adjacent grade where no Base Flood Elevation is available, to which any new or substantially improved non-residential buildings or structures have been flood proofed. When flood proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of elevation to which the structure was flood proofed from a registered professional engineer or land surveyor.
- (12) Ensure that all records and certifications pertaining to the provisions of Sections 9.701–9.707 are permanently maintained in the City of Medford Building Safety Department and available for public inspection.
- (13) Make periodic inspections of Areas of Special Flood Hazard to establish that development activities are being performed in compliance with Sections 9.701–9.707, and to verify that existing buildings and structures maintain compliance with Sections 9.701–9.707;
- (14) Inspect areas where buildings and structures in Areas of Special Flood Hazard have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure; and,

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- (15) Make substantial improvement and substantial damage determinations for all structures located in Areas of Special Flood Hazard.

C. Floodplain Development—Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator or designee on forms furnished by the Floodplain Administrator or designee prior to starting development activities. Specifically, the following information is required:

- (1) Application Stage.
 - a. Plans drawn to scale, with elevations of the project area, and the nature, location, and dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities;
 - b. Delineation of Areas of Special Flood Hazard, Regulatory Floodway boundaries including Base Flood Elevations, or flood depth in AO zones, where available;
 - c. For all proposed structures, elevation of the lowest enclosed area in relation to the highest adjacent grade and the Base Flood Elevation (or flood depth in AO zones), including crawlspace or basement, elevation of the top of the proposed garage slab, if any, and elevation of the next highest floor.
 - d. Locations and sizes of all flood openings, if required, in any proposed building;
 - e. Elevation to which a non-residential structure will be flood-proofed;
 - f. Certification from a registered professional engineer that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the National Flood Insurance Program (NFIP) and Specialty Codes;
 - g. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;
 - h. Proof that application has been made for necessary permits from other governmental agencies from which approval is required by Federal or state law.
- (2) Construction Stage.
 - a. Copies of all necessary permits from other governmental agencies from which approval is required by Federal or state law shall be provided prior to start of construction.
 - b. Development activities shall not begin without an approved Floodplain Development Permit.
 - c. For all new construction and substantial improvements, the Floodplain Development permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to

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further vertical construction; and,

- d. Any deficiencies identified by the Floodplain Administrator shall be corrected by the Floodplain Development Permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

(3) Certificate of Occupancy.

- a. In addition to the requirements of the Specialty Codes pertaining to Certificate of Occupancy, and prior to the final inspection, the owner or authorized agent shall submit the following documentation for finished construction that has been signed and sealed by a registered surveyor or engineer:
 - i. For elevated buildings and structures in Areas of Special Flood Hazard (all A zones), the elevation of the lowest floor, including basement or, where no Base Flood Elevation is available, the height above highest adjacent grade of the lowest floor; and,
 - ii. For non-residential buildings and structures that have been flood proofed, the elevation to which the building or structure was flood proofed.
- b. Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a Certificate of Occupancy until such deficiencies are corrected.

- (4) Expiration of Floodplain Development Permit. A Floodplain Development Permit shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing.

D. Watercourse Alterations.

- (1) Development shall not diminish the flood-carrying capacity of a watercourse. If any watercourse will be altered or relocated as a result of the proposed development, the applicant must submit certification by a registered professional engineer that the flood-carrying capacity of the watercourse will not be diminished.
- (2) The applicant shall be responsible for obtaining all necessary permits from governmental agencies from which approval is required by Federal or state law, including, but not limited to, section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 USC 1334); the Endangered Species Act of 1973 (16 USC 1531-1544); and State of Oregon Department of State Lands regulations.
- (3) If the altered or relocated watercourse is part of an Area of Special Flood Hazard, the applicant shall notify other affected jurisdictions and Oregon Department of Land Conservation and Development (the NFIP Coordinating Agency for Oregon) prior to any alteration or relocation of the watercourse. Evidence of notification must be submitted to the Floodplain Administrator and to the Federal Emergency Management Agency as set forth in Section 9.705.E, below.

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- (4) The applicant shall be responsible for ensuring necessary maintenance for the altered or relocated portion of the watercourse is provided so that the flood-carrying capacity will not be diminished.
- (5) The applicant shall meet the requirements to submit technical data in Section 9.705.E, below, when an alteration of a watercourse results in the expansion, relocation or elimination of the Special Flood Hazard Area.

E. Requirement to Submit New Technical Data.

- (1) Within six months of project completion, an applicant who obtains an approved Conditional Letter of Map Revision from the Federal Emergency Management Agency (FEMA), or whose development alters a watercourse that is part of an Area of Special Flood Hazard, or modifies floodplain boundaries or Base Flood Elevations, shall obtain from FEMA a Letter of Map Revision reflecting the as-built changes to the Flood Insurance Rate Map.
- (2) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- (3) Applicants shall be responsible for all costs associated with obtaining a Conditional Letter of Map Amendment or Letter of Map Revision from FEMA.
- (4) When the applicant has demonstrated that the project will or has met all applicable requirements of this section, the Floodplain Administrator may sign the Community Acknowledgement Form, which is part of the Conditional Letter of Map Amendment or Letter of Map Revision application.

F. Non-Conversion of Enclosed Areas Below the Lowest Floor.

To ensure that enclosed areas below the lowest floor continue to be used solely for parking vehicles, limited storage, or access to the building, and not be finished for use as human habitation, the Floodplain Administrator shall:

- (1) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are five feet or higher; and
- (2) Require those applicants to enter into a "Non-Conversion Deed Declaration for Construction Within Flood Hazard Areas" or equivalent, with the City of Medford. The deed declaration shall be recorded with Jackson County. The deed declaration shall be in a form acceptable to the Floodplain Administrator and City Attorney.

9.706. FLOOD DAMAGE PREVENTION REGULATIONS—FLOOD HAZARD REDUCTION PROVISIONS.

A. Site Improvements and Subdivisions.

All plans and permits for new site improvements, subdivisions, and manufactured home parks shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding. The test of reasonableness is

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a local judgment and includes such things as historical data, high water marks, and photographs of past flooding.

- (1) Building lots shall have adequate buildable area outside of Floodways.
- (2) Where Base Flood Elevation data has not been provided or is not available from another authorized source, it shall be generated for land division proposals and other proposed developments.
- (3) New site improvements, subdivisions, and manufactured home parks shall have public utilities and facilities, such as sewer, gas, electric and water systems, located and constructed to minimize or eliminate damage and infiltration of floodwaters. Replacement public utilities and facilities, such as sewer, gas, electric and water systems, likewise, shall be sited and designed to minimize or eliminate damage and infiltration of floodwaters.
- (4) New and replacement onsite waste disposal systems and sanitary sewerage systems shall be located and constructed to avoid functional impairment, or discharges from them, during flooding.
- (5) Subdivisions and manufactured home parks shall have adequate drainage provided to reduce exposure to flood hazards. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

B. Development in Regulatory Floodway

- (1) Encroachments are prohibited in the Regulatory Floodway unless a registered professional civil engineer provides a No-Rise Certification.
- (2) Any fill permitted to be placed in the Regulatory Floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.
- (3) Before the City will permit an encroachment in the Regulatory Floodway that will cause any increase in the base flood elevation, applicants shall obtain a Conditional Letter of Map Revision from the Federal Emergency Management Agency, unless the development causes a temporary encroachment and the conditions in (4), below, are satisfied.
- (4) Temporary encroachments in the Regulatory Floodway for the purposes of capital improvement projects (including bridges) require a Floodplain Development Permit. A conditional or final Letter of Map Revision shall not be required. Up to a one-foot rise in the base flood elevation shall be allowed due to temporary encroachments associated with capital improvement projects, when:
 - a. The project is limited as to duration, with the days and dates that the structure or other development will be in the Regulatory Floodway specified in the Floodplain Development Permit;
 - b. Accessory structures (i.e. construction trailers) are restricted from the Regulatory Floodway;

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- c. The project limits placement of equipment and material in the Regulatory Floodway to that which is absolutely necessary for the purposes of the project;
- d. The project includes a flood warning system sufficient to allow equipment to be evacuated from the Regulatory Floodway and placed outside the Area of Special Flood Hazard in the event of imminent flood;
- e. The project applicant identifies any insurable structures affected by temporary changes to the Area of Special Flood Hazard or Base Flood Elevation and notifies owners of any increased risk of flooding; and,
- f. The project applicant is provided with written notification that they may be liable for any flood damages resulting from the temporary encroachment.

C. Zones with Base Flood Elevations but No Regulatory Floodway.

- (1) In areas within Zone AE on the community's FIRM where no Regulatory Floodway has been designated, the floodway is the channel of the stream. Encroachments shall be prohibited in the channel or floodway unless all the provisions of 9.706.B are satisfied.
- (2) In Areas of Special Flood Hazard, encroachments shall be prohibited 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.
- (3) Applicants of proposed projects that increase the Base Flood Elevation more than one foot shall obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted. As soon as possible, but no later than six months after project completion, an application for a Letter of Map Revision (LOMR) shall be submitted by the applicant to FEMA. The applicant is responsible for paying any costs associated with the CLOMR and LOMR process.

D. Areas of Special Flood Hazard without Base Flood Elevations.

- (1) When Areas of Special Flood Hazard have been provided, but Base Flood Elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and/or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and utilize scientific or historic Base Flood Elevation and Regulatory Floodway data available from a Federal, state, or other source, in order to administer these regulations. If Base Flood Elevations are not available, subsection (3) below shall apply.
- (2) Where the Floodplain Administrator has obtained Base Flood Elevation data, Section 9.706.C and 9.706.E through K shall apply.
- (3) In Areas of Special Flood Hazard without Base Flood Elevation data no encroachments shall be located in an Area of Special Flood Hazard within an area equal to the width of the stream or 50 feet, whichever is greater, measured from the ordinary high water mark of the stream, unless a Base Flood Elevation is developed by a licensed professional engineer.

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E. Building Design and Construction

Buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes.

F. Below-Grade Crawlspace.

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

- (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Subsection (2) below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (2) The crawlspace is an enclosed area below the Base Flood Elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.
- (3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (5) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.
- (6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.
- (7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel/crushed stone drainage by gravity or mechanical means.

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- (8) The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

G. Recreational Vehicles.

In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the land development code must:

- (1) Be placed on the site for fewer than 180 consecutive days; or,
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition.

H. Essential Facilities.

Construction of new essential facilities shall be located outside the limits of the Area of Special Flood Hazard, except that construction of new essential facilities shall be permissible within the Area of Special Flood Hazard if no feasible alternative site is available. Flood proofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality 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 essential facilities to the maximum extent possible.

I. Tanks.

New and replacement tanks in an Area of Special Flood Hazard shall either be elevated above the Base Flood Elevation on a supporting structure designed to prevent flotation, collapse or lateral movement during conditions of the base flood, or be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the Design Flood.

New and replacement tank inlets, fill openings, outlets and vents shall be placed a minimum of two feet above Base Flood Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the Design Flood.

J. Fences and Walls

New and replacement fencing in an Area of Special Flood Hazard shall be designed to collapse under conditions of the Base Flood or to allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass freely.

K. Other Development, including Accessory Structures, in High Hazard Areas.

All development in high hazard areas (all A zones) for which provisions are not specified in Sections 9.701–9.707 or building codes, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Be designed so as not to impede flow of floodwaters under Base Flood conditions;
- (3) If located in a Regulatory Floodway, meet the limitations of Section 9.706.B;

Exhibit A

- (4) Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (5) Be constructed of flood damage-resistant materials;
- (6) Have electric service and or mechanical equipment elevated above the Base Flood Elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements.
- (7) Relief from elevation or dry flood-proofing standards may be granted for new and replacement, or substantially improved accessory structures containing no more than 200 square feet; larger than 200 square feet, building codes apply. Such a structure must meet (1) through (6) of this Subsection, and, in addition, shall meet the following standards:
 - a. It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;
 - b. Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below Base Flood Elevation, or where no Base Flood Elevation is available, lower than three feet above grade, unless confined in a tank installed in compliance with this section;
 - c. It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect, or:
 - i. Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening; and,
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

9.707. FLOOD DAMAGE PREVENTION—VARIANCE.

Variances from the provisions of Sections 9.701–9.706 may be permitted when there are practical difficulties or unnecessary hardships created in carrying out the provisions. The basis for a variance shall be the physical circumstances or characteristics of a lot; a variance shall not be based on the inhabitants or owners of the property, their economic or financial circumstances, or the condition or situation of structures on the property. The burden is on the applicant to show that the variance is warranted and meets the approval criteria set out herein.

The provisions of this Section are not the same as, nor to be confused with, provisions for Exceptions in the Land Development Code.

Exhibit A

A variance may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties without regard to the procedures set forth in this Section.

A. Variance—Procedure.

- (1) An application for a variance from the Flood Damage Prevention regulations must be submitted to the Floodplain Administrator on the form provided by the City and shall include, at a minimum, the same information required for a Floodplain Development Permit, and an explanation of the basis for the request for a variance.
- (2) Variance requests will be heard by the Planning Commission and be processed in the manner of a Class-C application, using the Class-C procedural requirements in Chapter 10, Article II of the Municipal Code. City will use the same referral agency notification list as is used for Exceptions (Section 10.146).
- (3) Upon consideration of the approval criteria in Subsection B, below, and the purposes of this Section, and finding that the approval criteria can be met, the City approving authority may approve the request and attach such conditions to the granting of a variance as it deems necessary to further the purposes of these regulations.
- (4) The Floodplain Administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

B. Variance—Approval Criteria.

- (1) A variance shall not be issued within a Floodway if any increase in flood levels during the Base Flood discharge would result.
- (2) A variance shall only be issued upon the:
 - a. Determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - b. Showing of good and sufficient cause;
 - c. Determination that failure to grant a variance from these regulations would result in exceptional hardship to the applicant; and,
 - d. Determination that the granting of a variance would not result in increased flood heights, additional threats to public safety, or extraordinary public expense; or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (3) In approving a variance, the City approving authority shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger to life and property due to flooding or erosion damage;

Exhibit A

- c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. Compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
 - i. Safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, expected at the site; and,
 - k. 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.
- (4) A variance may be issued for a water-dependent use provided that:
- a. the criteria of subsections (1) through (3) of this section are met; and,
 - b. the structure or other development is protected by methods that minimize flood damages during the Base Flood and that create no additional threats to public safety.

C. Variance—Decision.

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval or denial. If the variance is granted, the property owner shall be put on notice, along with the written decision, that the permitted building will have its lowest floor below the Base Flood Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

Exhibit A

Part 2: Definitions to be **deleted** from Chapter 10 of the Municipal Code (Section 10.012, Definitions) to eliminate redundancy.

Filling 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, base. The flood having a one percent chance of being equaled or exceeded in any given year.

Flood, area of special flood hazard. Land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

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.

Habitable floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

Exhibit B

Flood Damage Prevention Regulations (DCA 10-099)
Staff Report

4/7/2011

Public Comments

February 11, 2011

City of Medford
Planning Department
City Hall
Medford, OR 97501

RECEIVED
FEB 15 2011
PLANNING DEPT.

Re: File No. DCA 1-099

Re: FEMA MAP OF identified Flood Plain

Re: 1862 Delta Waters Road and 1884 Delta Waters road,
Medford, OR 97504

Planners:

I own the above referenced property in the City of Medford,
Oregon.

I am opposed to the proposed Ordinance as it will possibly
restrict use of my property.

I am opposed to the proposed Ordinance as the Map of the
Flood plain shown to me by the city employee, Christy West
is grossly inaccurate. That map shows the flood plain
covering about 20% or more or less of my property on the
south end. I had the elevation established by a surveyor
many years ago and it is not in the flood plain as shown on
the map. 99% of my property is quite a few feet above the
creek.

Also, I object to the ordinance because several of my
neighbor's properties are also shown as in the flood plain
and is inaccurate.

Yours truly,



Robert S. Forrest 541-779-3659 Mailing address:
1884 Delta Waters Road
Medford, OR 97504

Original Message -----
From: distiller
To: Christy L. West
Sent: Thursday, February 10, 2011 5:50 PM
Subject: Re: Test

RECEIVED
FEB 15 2011
PLANNING DEPT.

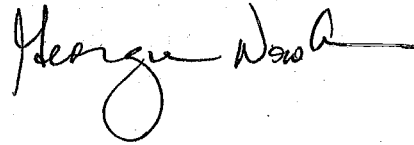
Christy,

Your helpfulness in answering my questions and concerns about the new FEMA flood hazard maps is appreciated.

A couple of my concerns, as I mentioned in our conversation, relates to the language in the proposed Flood Damage Prevention regulations. Initially, the definition of **Improvement, Substantial**, (page 4-5) as including structures which have incurred "Substantial Damage" gave me cause for concern as to the increased costs of repairing a home located in the flood plain damaged by, let's say, a fire. However, I now understand that the costs associated with rebuilding after such an event would not be necessarily increased under the regulations, but follow a slightly different set of standards.

Another part of the regulation language that I question is on page 7, E. (2). The interpretation and application of ...all provisions shall be: "**Liberaly construed in favor of the governing body..**" I have a problem with that language as it gives an immediate built-in bias favoring the municipality over its citizens. Yet, ordinances and regulations are there for the public good, and to serve its citizens, both individually and collectively.

Please accept these comments into the record. I am not opposing the new regulations, but as stated above, would like to see better use of language for E(2).



GEORGIA / DAVID Nowlin
P.O. Box 4204
Brookings, OR 97415

Properties affected: 1742 + 1746 Dove Lane

RECEIVED

FEB 17 2011

PLANNING DEPT.

February 15, 2011

City of Medford
Planning Commission
200 South Ivy Street
Medford, OR 97501

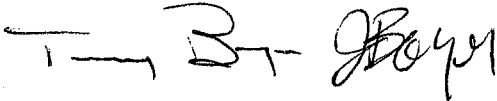
Dear Medford Planning Commission,

We received notification of your upcoming meeting regarding the adoption of a set of Flood Damage Prevention regulations which contains mandatory purchase of flood insurance if the new maps deem our property in a high risk area.

As residents of 1631 Inverness Dr. since 2005, we have yet to have waters come anywhere near a danger point. Our home is at least 15 feet above the level of the creek and sits back from the edge of the waterline. We experienced the high waters of New Years 2005, and there was absolutely no threat to our residence.

We are not in support of imposing mandatory flood insurance based on a new mapping. We are not at risk.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry & Julie Boyer". The signature is stylized and written in a cursive-like font.

Terry & Julie Boyer
1631 Inverness Dr.
Medford, OR 97504
541.779.2217
Julie.boyer@transworldsystems.com

RECEIVED
FEB 22 2011
PLANNING DEPT.

February 17, 2011

City of Medford Planning Department
200 S. Ivy Street
Medford, OR 97501

Re: Cardinal Building
2045 Cardinal Ave.

Hello:

This letter is in response to your notification of a hearing to amend the 100 year flood plain. I have concern over the impact this may have on our property at 2045 Cardinal Ave., either to us or to possible future owners.

When the building was constructed in 2006, the project was submitted to the City for review and was routed through all the departments (planning, building, fire, engineering, water, sewer, etc.) as required to obtain building permits. The fact that the permits were approved indicates that the building met all requirements, including floodplain.

Your proposed floodplain map shows almost half of our building is in the floodplain. During phone conversations with Christy West over the past few days, I learned that the proposed floodplain in the area of our building is no different than it was when our building was constructed. Considering all the improvements affecting the Midway Drainage Basin before and after our building was constructed, including the new traffic barriers just completed on Highway 62, it seems the flow of water would have changed in the drainage basin in the time between the adoption of the old and new floodplains.

Christy advised me that Medford Building Department does not have a Flood Elevation Certificate for our property in their files. I am including a pdf letter from DEW Engineering, dated August 30, 2006, that was accepted in lieu of a Certificate by City Planning and Engineering.

The DEW Engineering letter states that you did not know the floodplain elevation at that time. Christy, in our conversations, indicated that she didn't know what base elevation our building would have to exceed in order to meet the requirements of your proposed regulations. It seems if a property is being included in floodplain, you would know what those base elevations are, and be able to furnish them to property owners who may be effected, but perhaps I don't understand the particularities.

Our project was approved by the City of Medford who requires that all projects have a finish floor elevation above the 100 year base flood elevation. We do not know what changes are being made to the floodplain with this amendment, but we want to go on record that our property was not deemed to be in a floodplain when constructed and we oppose having it included in a floodplain now.

Thank you,

A handwritten signature in black ink, appearing to be 'Duane Hill', written in a cursive style.

Duane Hill
P.O. Box 4790
Sunriver, OR 97707
541-419-0077

A handwritten signature in black ink, appearing to be 'Sherry Hill', written in a cursive style.

Sherry Hill

Encl: DEW Engineering letter

August 30, 2006

City of Medford Building Department
200 S. Ivy, Suite 277
Medford, OR 97501

**RE: Hill Ventures Project
AC 06-136 Flood Elevation**

Dear Sir:

One requirement of the Final Order for AC 06-136 is to provide a Flood Elevation Certificate per the Building Department Memo dated June 7, 2006. The drainage in question is the midway drainage and is a non-detailed FEMA study area (no elevations). After discussions with Larry Beskow and Derek Zwagerman, it was decided that providing the Building Department Findings of Fact should be adequate to meet the stated condition.

Findings of Fact:

1. The existing channel shown on the FEMA map has been replaced by a new 8 x 4 box culvert that is not adequate to convey the flow from a 100-year storm event. The inlet to this box culvert is on the East side of Crater Lake Highway. Should a storm event occur producing flows greater than the capacity of the box culvert, the water would back up East of Crater Lake Highway until it flowed over Crater Lake Highway inundating the King Center Shopping area. Water would then flow through the parking lots and driveway entrances and overflow into the streets (Lear Way and Cardinal Avenue), thus the streets would effectively become the overflow channels for this box culvert.
2. The water would not (actually could not) flow over the top of the box culvert because the streets are considerably lower than the box culvert. On our site, the finished floor of the building is at 19.00, the flow line of the curb at our East property line is 18.29 and the flow line in Lear Way, adjacent to the building, is 16.50 feet. The building, as demonstrated, is considerably higher than the street grade on the North side of the property, where the box culvert is. We will be lifting the grade over the box culvert approximately 2 feet, again effectively preventing any water from coming into the building. The existing ground on the North side is approximately 17.5 feet, and our finished floor is 19 feet.

Conclusion:

Because of the considerable and substantial changes to the topography in the area of the old Midland Channel, now a box culvert, I feel that these Findings of Fact sufficiently address any concern that a 100-year flood event would affect this building.

Please feel free to call me if you have any questions in this regard.

Sincerely,

DEW ENGINEERING, INC.

Mark R. Dew, P.E.

cc Jim Akery

**City of Medford
Att: Christy West**

2/21/2011

On February first of 2011 I received a letter from the planning department explaining their intent to except a new {FEMA} ruling that will be putting my home in the flood plane. I understand the city's reasons to comply with this in order to be part of the {NFIP} program, however I would not have bought my home had I ever thought that the possibility of it being added to or put in a flood plane excised. I would have to disagree with {FEMA} new map that now include my home at 758 Spring Valley drive for the following reasons.

The existing lay of the land, prior to 2003 was a field. there are now gutters, drains, and ditches, as well as most of the homes including mine are approximately 36" above the street level and built on top of the shale fill that was added to the lots.

I also understand that the City of Medford's engineering department is doing it's own study of the Elk Creek Basin that I supposedly am in.

I have contacted {FEMA} in regard to doing a map amendment, they told me that they don't even have a base level for me yet. I have spoken to "Friar L J & Associates" and in order to do a map amendment they need a base level to start with.

Due to these reason I wish to ask that the City of Medford and it's entities keep my property in a open status until the engineering department, or {FEMA} base level has been finished.

**Thank You
Steven Westcott
758 Spring Valley drive
Medford Oregon 97501
(514) 951-3683**

**RECEIVED
FEB 22 2011
City of Medford
Building Safety Dept**

Doug Olson
Olson Holdings, LLC
2800 country club Dr
Medford, Or 97504
541 7736588
2/24/11

RECEIVED

FEB 24 2011

PLANNING DEPT.

Medford Planning Commission
City Of Medford
200 South Ivy Street
Medford, Or 97501
541 7742380, fax 541 6181708

Re. Flood Plane Issues, Map # 371W06, TL 3901
File #: DCA-10-099

Dear Sirs:

What you are doing now appears to be the right thing to do. I just wanted to remind you that the small no name drainage ditch that runs northwest through our property and drains the Midway Drainage System, used to dry up in the summer and in the winter, flow never exceeded its banks. It ended up in a slough past the airport, never reaching Bear Creek. Now with all of your excess storm drainage from construction and the forcing of flows through this ditch that naturally went around our property, there is flooding on our property and the ditch flows all the way to Bear Creek. Also many flows are unnaturally (i.e., they naturally flowed elsewhere) forced through the two pipes under the Haul Road, just past our property, that drain the no name drainage ditch. All the flows can add up to more flow than can get through these two pipes thus backing up flow on our property. This flooding next door to our airport is very dangerous due to the subsequent attraction to waterfowl, West Nile Virus, our nexus to the Bird Flu Epidemic and now the newly discovered fact that wetlands are our strongest contributor to Global Warming. Methane gas is the biggest contributor to Global Warming gases and wetlands are the biggest contributor to methane gas.

Please alleviate this forced flooding of our property.

Yours truly,



Doug Olson, member of Olson Holdings, LLC

From: Shirley, Christine [mailto:christine.shirley@state.or.us]
Sent: Thursday, February 24, 2011 8:29 AM
To: Christy L. West
Subject: RE: Planning Commission Meeting

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FEB 24 2011
PLANNING DEPT

Christy,

Thanks for sending this. I have a few questions and comments.

Definitions:

Development: FEMA has asked that item b> Driveways, parking lots...etc. be removed from the list of exemptions

Floodway and Floodway, regulatory: I am not clear about what you are trying to accomplish here. Why two definitions? The floodway regulations don't seem to differentiate between these two definitions.

HAG: This can be removed. I don't see reference to it in the ordinance

Wall, breakaway: this definition can be removed as it is used in coastal zone

9.704 B: FEMA likes to see the address of city offices included

9.705 B(6): I think the paragraph reference should be to 9.706.A(2). Also, FEMA requires that any development of subdivision that affects 5 acres or 50 lots have a BFE developed if one is not available. I can't tell reading your ordinance if this requirement is missing or if you will require all development where there is no BFE to have one developed. On paragraph (6) here the "or" seems to indicate that a BFE will be developed or the floodplain administrator can make a "reasonably safe from flooding" determination. The "or" phrase is only valid if the development does not cross that threshold of 5 acres or 50 lots. (I realize it was written this way in the draft model.)

9.706.A(2): Do you wish to require a BFE for all land division proposals and other proposed developments? See my comment under 9.705B(6).

9.706.B: Does this section apply to the Floodway and Regulatory Floodway?

9.706.B(4): Remove the phrase "one-foot". This section should refer to any rise. Or are you trying to say that up to a one foot rise would be allowed under the conditions a - f?

9.706.B(5): The Army Corps permit NWP-2007-1023 only applies in areas outside the UGB. I did not make this clear in the model ordinance. Paragraph 5 is meant to make it easier to do stream habitat restoration in rural areas. In urban areas stream habitat restoration needs to have a more detailed review due to the potential to affect structures and render adjacent parcels difficult to develop.

9.706.E: I recommend that the phrase beginning with "but not limited to...." Be removed. The section numbers that address flood hazards can change. In fact in the new residential code to be published soon the flood hazard section changed to 322.

9.708: Remember to add a \$ amount and number of days for penalty.

Please call or email with any questions,

Christine Shirley | NFIP Coordinator

Planning Services Division

Oregon Dept. of Land Conservation and Development

635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540

Office: (503) 373-0050 ext. 250 | Cell: (971) 239-9457 | Fax: (503) 378-6033

christine.shirley@state.or.us | www.oregon.gov/LCD

March 24, 2011

Mr. James Huber
200 South Ivy Street
Lausmann Annex
Medford, OR 97501

RECEIVED
NOV 24 2011
PLANNING DEPT.

Dear Mr. Huber:

Pursuant to the proposed amendment to the Medford Building Safety Code and "updated" Flood Insurance Rate Map, I am writing this response as directed to vigorously OPPOSE said amendment unless the flood plain mapping is corrected to reflect real world boundaries.

Maps, old and the proposed "new" provided by the city are grossly inaccurate and DO NOT represent actual existing elevations on or near my property or the properties in the immediate area. It would be impossible for floodwaters to occupy the boundaries that your maps indicate. I demand that your mapping be reconsidered as it impacts my property negatively because of its total inaccuracy. I would gladly speak to someone on this matter on site.

Respectfully,
Thomas Howard
1851 Canyon Avenue
Medford, OR 97504
541-779-8489

City of Medford
ATT: Christy West

3/24/2011

The following is in response to 2 letters of public hearings that were sent to me on 2/01/2011 , and 3/17/2011. These 2 hearing are in regard to my property at 758 Spring Valley Drive Medford OR. 97501 being put into flood plane by FEMA, and the City of Medford's decisions, and actions that were to follow.

On February 21 / 2011 I delivered a letter requesting that my property at 758 Spring Valley Drive Medford OR. 97501 remain in an open status until such time when the engineering department has completed there study of impact of the Elk Creek basin.

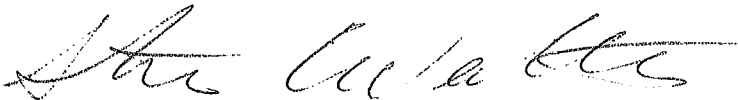
I still wish to continue with that request. My reasoning for this is, upon speaking to " Friar LJ & Associates" the original surveyor of this property, that it appears that the current studies done buy FEMA are inadequate for my property. We believe that the base level has not been correctly assessed . An extensive survey, and map amendment can be done that would show that this property is not in a flood plain, but it would be at an excessive financial burden that I am unable to do at this time. When we bought our property in 2004 it was deemed NOT to be in any flood plane. I understand that the City need's to protect it's self , and it's citizens . However I would appreciate the City helping me to avoid this unnecessary financial burden buy allowing my property to be left in the open status until the engineering dept has made its final conclusions. I have included the formal letter . Please feel free to contact me with any response or questions you may have. Thank you so much for taking the time to help me with this mater.

Steven Westcott
758 Spring Valley drive
Medford Oregon 97501
(514) 951-3683

RECEIVED

APR 01 2011

City of Medford
Building Safety Dept



**City of Medford
Att: Christy West**

2/21/2011

On February first of 2011 I received a letter from the planning department explaining there intent to except a new {FEMA} ruling that will be putting my home in the flood plane. I understand the city's reasons to comply with this in order to be part of the {NFIP} program, however I would not have bought my home had I ever thought that the possibility of it being added to or put in a flood plane excised. I would have to disagree with {FEMA} new map that now include my home at 758 Spring Valley drive for the following reasons.

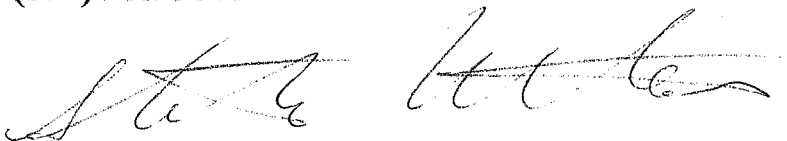
The existing lay of the land, prior to 2003 was a field. there are now gutters, drains, and ditches, as well as most of the homes including mine are approximately 36" above the street level and built on top of the shale fill that was added to the lots.

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Due to these reason I wish to ask that the City of Medford and it's entities keep my property in a open status until the engineering department, or {FEMA} base level has been finished.

**Thank You
Steven Westcott
758 Spring Valley drive
Medford Oregon 97501
(514) 951-3683**



RECEIVED

APR 01 2011

**City of Medford
Building Safety Dept**

RECEIVED
APR 04 2011
PLANNING DEPT.

March 29, 2011

City of Medford Planning Department
200 S. Ivy Street
Medford, OR 97501

Re: Cardinal Building
2045 Cardinal Ave.

Hello:

I am submitting this letter as part of the public record for the Public Hearing scheduled for April 7, 2011.

I have concern over the impact this may have on our property at 2045 Cardinal Ave., either to us or to possible future owners.

When the building was constructed in 2006, the project was submitted to the City for review and was routed through all the departments (planning, building, fire, engineering, water, sewer, etc.) as required to obtain building permits. The fact that the permits were approved indicates that the building met all requirements, including floodplain.

Your proposed floodplain map shows almost half of our building is in the floodplain. During phone conversations with Christy West over the past few days, I learned that the proposed floodplain in the area of our building is no different than it was when our building was constructed. Considering all the improvements affecting the Midway Drainage Basin before and after our building was constructed, including the new traffic barriers just completed on Highway 62, it seems the flow of water would have changed in the drainage basin in the time between the adoption of the old and new floodplains.

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The DEW Engineering letter states that you did not know the floodplain elevation at that time. Christy, in our conversations, indicated that she didn't know what base elevation our building would have to exceed in order to meet the requirements of your proposed regulations. It seems if a property is being including in floodplain, you would know what

those base elevations are, and be able to furnish them to property owners who may be affected. We believe that with the changes the City has made to water run-off in the area, our building is not in the current floodplain.

Our project was approved by the City of Medford who requires that all projects have a finish floor elevation above the 100 year base flood elevation. We do not know what changes are being made to the floodplain with this amendment, but we want to go on record that our property was not deemed to be in a floodplain when constructed and we oppose having it included in a floodplain now.

Thank you,

Duane Hill
P.O. Box 4790
Sunriver, OR 97707
541-419-0077

Sherry Hill

Encl: DEW Engineering letter

August 30, 2006

City of Medford Building Department
200 S. Ivy, Suite 277
Medford, OR 97501

**RE: Hill Ventures Project
AC 06-136 Flood Elevation**

Dear Sir:

One requirement of the Final Order for AC 06-136 is to provide a Flood Elevation Certificate per the Building Department Memo dated June 7, 2006. The drainage in question is the midway drainage and is a non-detailed FEMA study area (no elevations). After discussions with Larry Beskow and Derek Zwagerman, it was decided that providing the Building Department Findings of Fact should be adequate to meet the stated condition.

Findings of Fact:

1. The existing channel shown on the FEMA map has been replaced by a new 8 x 4 box culvert that is not adequate to convey the flow from a 100-year storm event. The inlet to this box culvert is on the East side of Crater Lake Highway. Should a storm event occur producing flows greater than the capacity of the box culvert, the water would back up East of Crater Lake Highway until it flowed over Crater Lake Highway inundating the King Center Shopping area. Water would then flow through the parking lots and driveway entrances and overflow into the streets (Lear Way and Cardinal Avenue), thus the streets would effectively become the overflow channels for this box culvert.
2. The water would not (actually could not) flow over the top of the box culvert because the streets are considerably lower than the box culvert. On our site, the finished floor of the building is at 19.00, the flow line of the curb at our East property line is 18.29 and the flow line in Lear Way, adjacent to the building, is 16.50 feet. The building, as demonstrated, is considerably higher than the street grade on the North side of the property, where the box culvert is. We will be lifting the grade over the box culvert approximately 2 feet, again effectively preventing any water from coming into the building. The existing ground on the North side is approximately 17.5 feet, and our finished floor is 19 feet.

Conclusion:

Because of the considerable and substantial changes to the topography in the area of the old Midland Channel, now a box culvert, I feel that these Findings of Fact sufficiently address any concern that a 100-year flood event would affect this building.

Please feel free to call me if you have any questions in this regard.

Sincerely,

DEW ENGINEERING, INC.

Mark R. Dew, P.E.

cc Jim Akery

Exhibit C

Flood Damage Prevention Regulations (DCA 10-099)
Staff Report

4/7/2011

Planning Commission Minutes

2/24/2011



MINUTES
Planning Commission Meeting
February 24, 2011

The regular meeting of the Medford Planning Commission was called to order at 5:30 p.m. in the Council Chambers on the above date with the following members and staff in attendance:

<u>Commissioners</u>		<u>Staff</u>
Norman Nelson, Chair	David McFadden	Suzanne Myers, Principal Planner
Tim Jackle, Vice Chair	Robert Tull	Lori Cooper, Deputy City Attorney
Daniel L. Bunn	Allen Potter	Larry Beskow, City Engineer
Bill Christie		John Adam, Planner IV
Jerry Shean		Christy West, Development Services Administrator
Brita Entenmann, Absent		Chris Reising, Building Director
		Kristy Grieve, Recording Secretary

10. Roll Call

20. Consent Calendar/Written Communications. None

30. Minutes.

30.1 The minutes for January 27, 2011, and February 10, 2011 were accepted as submitted.

40. Oral and Written Requests and Communications. None

50. Public Hearings.

New Business

50.1 DCA-10-099 Consideration of a proposed Class "A" legislative amendment of the Medford Municipal Code Sections 9.701 through 9.710 to add flood damage prevention regulations which reduce the risk of property damage in flood-prone areas, restrict or prohibit uses dangerous to health, safety, and property, control filling, grading, dredging, and other development that may increase flood damage or erosion; to remove redundant/conflicting definitions from Section 10.012 and to adopt updated flood insurance rate maps. City of Medford, Applicant

Christy West, Development Services Administrator, presented the proposed amendment and changes to the floodplain map. She noted a website for residents to use to determine if their property is located within a floodplain. The website is: <https://services.medfordmaps.org/Floodplains>. Ms. West noted two additional opportunities for public participation: An Open House/Floodplain Insurance Fair on March 29, 2011, and the City Council hearing on April 7, 2011. She reiterated that the City does not have the authority regarding which properties are designated as being in the floodplain. Residents would need to appeal to the Federal Emergency Management Agency if they believe their property was incorrectly included in the FEMA Map.

Commissioner Nelson asked what would happen if the City did not adopt the FEMA map. Ms. West responded that the City would be dropped from the National Flood Insurance Program (NFIP) and that residents in a hazard area would not be able to obtain insurance through NFIP. She added that most local insurance agents were certified by the NFIP, and while some private sectors offer the insurance, it is not easily affordable. Those that already have flood insurance through the NFIP would not be able to renew their policy. Ms. West also noted that federal aid would not be available for properties in the floodplain area.

Commissioner Nelson asked if the City of Medford had authority regarding which properties are designated as being in the floodplain. Ms. West explained that the City's authority is to either adopt the FEMA map, or to not adopt the map. She noted that for any boundary issues, residents would need to appeal to FEMA directly. She reiterated that the City is proposing to adopt what FEMA designated. It was noted that residents that wanted to be included in the floodplain would also appeal to FEMA. Ms. West also reported that if the property is outside of the Special Flood Hazard Area (SFHA) residents could still get flood insurance through NFIP.

Commissioner McFadden asked about the relationship between the 100- and 500-year flood zones and the plans for natural disaster. Ms. West assured him that sort of information was considered, along with projections on weather patterns. She noted that FEMA contacted jurisdictions in the area. She advised that the information was available on the FEMA website.

Commissioner Tull asked if the City were not to adopt this ordinance, would the City by having made that decision become in any way liable for damage to property owners. Ms. West deferred the question to the City Attorney. Ms. Cooper responded that she cannot answer that question, but noted that the decision could be submitted as evidence. Commissioner Tull stated that it seemed without a specific answer, the responsible thing to do would be to adopt this ordinance.

Commissioner Potter asked if the appeal process at FEMA only applied to property owners, or could the City of Medford file an appeal. Ms. West responded that anyone could file an appeal with FEMA.

John Adam, Planner IV, presented a Staff Report and approval criteria. He noted that DLCD had submitted some late comments and suggestions that could not be reviewed in time for tonight's hearing, but that any changes as a result prior to the Council hearing would likely be minor technical changes. Staff recommended that the Planning Commission forward a favorable recommendation to the City Council for DCA-10-099.

Commissioner Jackle asked about the "liberal construction" language noted in the staff report by a person submitting testimony, and questioned the need for it. Mr. Adam explained that it was from the DLCD model ordinance. Ms. Cooper indicated that the language gives notice that it will be liberally construed. It is boilerplate language and gives more strength to the interpretation when the time comes. Mr. Adam responded that while he didn't know of any loopholes, he warned that it is a danger anytime you have regulations. It is boilerplate language and staff accepted that. It is not an uncommon thing to see in regulations.

Commissioner Jackle feels that the code should have a regulation that is clear and understandable so as not to have to rely on liberal construction. He is not aware of it elsewhere in the City's code. Ms. Cooper responded that it is not required and would probably be fine if the term were removed.

The public hearing was opened and the following testimony was given:

- a) Pat Miller, 1658 Dove Lane, Medford, Oregon. Ms. Miller stated that she had papers that say her property is not in the floodplain. She indicated that she could not get the property refinanced because the City said Crooked Creek runs through there, but that her paper shows that the creek is covered up.

Commissioner Nelson and Ms. West advised her to file an appeal with FEMA.

- b) James Wickre, 548 Amber Circle, Medford, Oregon. Mr. Wickre indicated that he does not want his property to be included in the new floodplain map, but acknowledged that the City cannot make that determination. He noted that Congressman Tim Walberg introduced a bill HR700 that would create a flood map moratorium. He suggested contacting Senator Greg Walden by e-mail. He recommended that anyone upset by the new FEMA map to contact him for Greg Walden's contact information. He indicated this would create financial hardship for some people, and make it more difficult to sell the property. He recommended that residents talk to the insurance agents at the Open House. He complimented City Staff for the information they provided. He thanked the Commission.

Commissioner Shean asked if the insurance grandfathering option was available for his situation. Mr. Wickre responded that it was and that there were two options for lower risk insurance policy for property not previously in the floodplain map area. Commissioner Jackle asked Mr. Wickre if he had looked at the process of getting the map amended. Mr. Wickre responded that he watched a video on it from Jackson County. He noted a surveyor could come out, but you have no idea what the surveyor will tell you. It could cost you the money for the survey and you may still need to get insurance. Mr. Wickre also recommended taking photos of the property.

- c) Jack Woerner, 1661 Dove Lane, Medford, Oregon. In regards to Ms. Miller's comments on Crooked Creek, Mr. Woerner noted that it lies behind Dove Lane and Garfield Avenue. He reported that the waterway is not maintained, but he believes it is in the City's jurisdiction. He was concerned that a flood may wash the waterway out. Mr. Woerner also expressed concern about 1 million yards of soil put into the Anton Drive Waterway, west of Harry and David's and what is the City's responsibility to maintain waterways and floodplain encroachment.

Commissioner Nelson suggested he talk to Mr. Beskow in the City Engineering Department.

- d) Brian Westerhout, 627 Ipson Drive. Mr. Westerhout had a question about the base flood elevations and the AE zones. He asked if those base elevations will change if this is adopted. He acknowledged that they are changing in terms of the benchmark they are measured against, but in absolute terms will those change. If not, then he has no objection to this.

Mr. Beskow explained that the difference between NGV 1929 and NAVD 1988 is approximately four feet in general terms. He noted that in the new maps, you may see higher elevations for the base flood elevation. Medford is still using the 1929 datum. He noted the City is working to get the records up on the 1988 datum. Mr. Beskow's understanding is that the base flood elevation and the equivalent site elevation is the same. The shape of the floodplain has changed because the new DFIRM are based on newer contour information. The old maps had little or no contour information. He noted that things may look a little different, but are relatively the same. The datum is what had changed.

Commissioner Tull asked if a water course that is underground for some distance is considered to be an active course in the floodplain. Mr. Beskow responded that some of the smaller streams were previously placed underground. He indicated that the City no longer does that except for very short distances. He noted they are designed for the 25-year storm. Some water goes through a culvert, and some overground. That is split-flow conditions, so there is potentially surface water in a 100-year flood. Mr. Beskow observed that most cities design to the 10-year storm. He indicated it is too costly for infrastructure to design for the 100-year flood. Most areas in Medford are designed for the 25-year storm, with some for the 10-year storm.

Commissioner Tull asked if some culverts are being removed to bring water to the surface again like the KOGAP property. Mr. Beskow noted that KOGAP had some that go underground. He noted that the site plan shows Hanson creek as an amenity.

Commissioner Nelson asked if the FEMA floodplain map was based on elevation, and doesn't matter if in a culvert or not. Mr. Beskow responded that in most instances there are split-flow conditions.

- e) Harold Haugen, 4300 Lower River Road, Grants Pass, Oregon. Mr. Haugen stated that he is a representative of the Rogue Valley Association of Realtors, but is not there on their behalf. Mr. Haugen pointed out that page 9 of the proposed amendment incorrectly referenced Code Section 9.706.A(4). Mr. Adam confirmed that he was correct, and it should refer to 9.706.A(2). Mr. Haugen asked if the flood elevation certification could be done by surveyors. He noted that the code only references engineers. Mr. Beskow acknowledged that most flood certifications are done by surveyors and they are qualified to do that. He agreed that the code should reference that. Mr. Haugen expressed concern that much of the language is not necessarily required by state ordinance or federal law, but is put in due to staff preference when it doesn't need to be in there. He gave an example of comments from referral agencies and DLCD. He thanked Staff and the Commission for their efforts.

Mr. Adam agreed to add the elevation certificate by surveyor. The code section reference error will also be corrected. He pointed out that the Commission may want to consider whether the words "liberally construed" should be in there or not. Commissioner Jackle asked if it is within the Commission's discretion to take that language out and not run afoul of FEMA's regulations. Mr. Adam responded that he believes so.

Ms. West, in response to Mr. Haugen's comments, noted that the original ordinance started with 36 pages. She noted that quite a lot of verbiage was taken out that wasn't required to be there.

The public hearing was closed.

Motion: Recommend approval to the City Council for adoption of the Flood Damage Prevention Regulations (DCA-10-099) per the Staff Report dated 2/16/2011, including Exhibits A through C, with such revisions as staff deems appropriate to address DLCD comments and revisions staff discussed tonight; adding the change to include a surveyor to provide an elevation certificate; and a correction on page 9 of the proposed amendment to a reference which should be Code Section 9.706.A(2) instead of 9.706.A(4).

Moved by: Commissioner Shean Seconded by: Commissioner Jackle

Friendly amendment by Commissioner Jackle: On Exhibit A, remove item E.(2) "Liberally construed in favor of the governing body".

Discussion: Commissioner Jackle indicated that he feels it is a bad idea to have a specific construction standard in only one part of the code and not elsewhere. All should be interpreted in the same standard.

Roll Call Vote: Motion passed, 8 - 0

- 50.2 DCA-11-003 Consideration of a proposed Class "A" legislative amendment of the Medford Land Development Code to revise Sections 10.337 in Article III, and 10.848 and 10.857(2) in Article V to allow the sale of live crab in all commercial and industrial zones for a maximum of 45 days per year, as well as minor housekeeping revisions regarding Christmas tree sales. City of Medford, Applicant

Suzanne Myers, Principal Planner, presented a Staff Report. Staff recommended that the Commission recommend the City Council adopt DCA-11-003.

Discussion:

Commissioner McFadden asked if the scope needed to be broadened. He gave an example of selling Girl Scout cookies in a parking lot. Commissioner Shean asked if the sale of clams, oysters, or fish would be disallowed. Ms. Myers confirmed that only crabs would be allowed to be sold. Commissioner McFadden asked about licensing and inspections and complying with health department standards. Ms. Myers responded that the amendment referred to a city business license and that the City is not involved in any other verification or inspection. Commissioner Potter suggested it would be more sensible to make a category such as Pacific Coast Seafood available at seasonal times category, other than just crabs. Ms. Myers indicated that Staff looked at a number of options and found it could be endless, it was also suggested to use the words "live seafood". Staff decided to focus on what the City Council directed. Commissioner Nelson suggested that the Commission focus on the City Council's specific direction. Commissioner Potter noted that the amendment may come back up again for other items.

The public hearing was opened and no testimony was given.

The public hearing was closed.

Motion: Recommend City Council adopt DCA-11-003 per the Staff Report dated February 15, 2011, including Exhibits A through B.

Moved by: Commissioner Shean Seconded by: Commissioner Jackle

Discussion: Commissioner Tull wondered what to do when stores complain about allowing someone else to sell crab in the parking lot. He is not comfortable with this amendment. Commissioner Shean likened this to nurseries that offer Christmas trees and the City allowing Christmas tree lot. Commissioner Tull asked what the public benefit was. Commissioner Shean responded that residents have better access to agricultural products in Oregon. Commissioner Potter observed that this amendment was driven by the zone. The industrial zone did

not allow it. Ms. Myers noted that the industrial zone does not allow retail sales, nor does it allow a temporary vendor. Ms. Myers also noted that the City Council granted an exemption to allow the live crab sales until March 1, 2011.

Roll Call Vote: Motion passed, 6 – 2, with Commissioners McFadden and Tull voting “no”

60. Report of Citizens Planning Advisory Committee.

60.1 Commissioner McFadden reported that at the meeting on February 22, 2011, the major topic discussed was continued development of a public brochure to encourage residents to attend CPAC meetings and become active in discussions about planning.

70. Report of the Site Plan and Architectural Commission. None

80. Report of the Joint Transportation Subcommittee. None

90. Report of the Southeast Plan Implementation Advisory Committee. None

100. Report of the Planning Department.

100.1 Suzanne Myers, Principal Planner, reported that on February 17, 2011, the City Council considered Capitol Hill communication tower, and it was continued to March 3, 2011. Ms. Myers noted that the Jackson County Planning Commission will have three additional hearings on RPS. They expect to conclude and forward a recommendation by April 14, 2011. She noted that the study session for February 28, 2011 has been cancelled. Ms. Myers noted there was no business for the March 10, 2011 meeting. Commissioner Nelson discussed his concerns about the RPS Regional Plan review taking so long at the County Planning Commission.

110. Messages and Papers from Chair of Planning Commission.

110.1 Commissioner Nelson noted that the Commission Roster had been updated with the committee assignments.

120. Remarks from the City Attorney. None

130. Propositions and Remarks from the Commission.

140. Adjournment.

140.1 The meeting was adjourned at 7:15 p.m. The proceedings of this meeting were digitally recorded and are filed in the City Recorder's office.

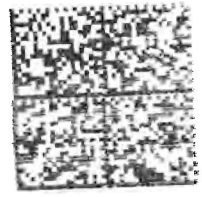
Submitted by:

Kristy Grieve
Recording Secretary

Norman Nelson
Planning Commission Chair

Approved: March 24, 2011

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LAND CONSERVATION
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ATTN: PLAN AMENDMENT SPECIALIST
DEPT. OF LAND CONSERVATION AND
DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OR 97301-2540

RETURN RECEIPT
REQUESTED

