



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

8/20/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Millersburg Plan Amendment
DLCD File Number 001-10

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, September 02, 2010

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

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

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

Cc: Barbara Castillo, City of Millersburg
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

DATE
STAMP

DEPT OF

AUG 13 2010

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

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

Jurisdiction: **City of Millersburg**

Local file number: **100810**

Date of Adoption: **8/10/2010**

Date Mailed: **8/11/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: **6/9/2010**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

This Proposal is an Amendment to the Millersburg Land Use Development Code, Article 7, Section 7.100 that replaces the existing Flood Hazard provision of the Code with the attached updated Flood Hazard provision in conformance with FEMA and DLCD Model Guidelines for Flood Damage Prevention.

Does the Adoption differ from proposal? **NO**

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-10 (18351) [16279]

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

**Federal Emergency Management Agency
Department of Land Conservation and Development**

Local Contact: **Barbara Castillo, City Administrator** Phone: (541) 928-4523 Extension:
Address: **4222 Old Salem Road NE** Fax Number: **541-928-8945**
City: **Millersburg, OR** Zip: **97321** E-mail Address: **bcastillo@cityofmillersburg.org**

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE NO. 102

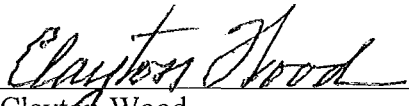
AN ORDINANCE REPEALING SECTION 7.100 OF THE CITY OF MILLERSBURG LAND USE DEVELOPMENT CODE AND REPLACING IT WITH A NEW SECTION 7.100.

THE PEOPLE OF THE CITY OF MILLERSBURG DO ORDAIN AS FOLLOWS:

The existing Section 7.100 of the City of Millersburg Land Use Development Code is hereby repealed and replaced with a new Section 7.100. The new Section 7.100 is attached and incorporated herein by this reference.


The above ORDINANCE is passed by the Millersburg City Council and approved by the Mayor of the City of Millersburg this 10th day of August, 2010. It is declared that the above Ordinance is hereby declared an emergency and effective immediately.

APPROVED:



Clayton Wood
Mayor

ATTEST:



Barbara Castillo
City Administrator/Recorder

ARTICLE 7 SPECIAL AREA STANDARDS

SECTION 7.010 CLASSIFICATION OF SPECIAL AREA STANDARDS

For the purposes of this Code the following Special Area Standards are hereby established:

<u>SPECIAL AREA STANDARD</u>	<u>ABBREVIATED DESIGNATION</u>
Flood Hazard Areas	FH
Wetlands & Riparian Areas	WR
Willamette Greenway Area	WG
Airport Approach Area	AA
Radon Impacted Area	RI
Planned Development Area	PD

- (1) Special Area Standards may apply within any Primary Zoning District. The Special Area Standards shall establish additional requirements, standards and procedures for the use and development of property in the Primary Zone. In cases of conflict between the standards and requirements of the Primary Zone and the Special Area Standards, the standards and requirements of the Special Area Standards shall apply.
- (2) The **Conditional Use** procedures of **Section 2.500** shall be utilized to apply the Special Area Standards contained herein. A Conditional Use is a use of land or a structure that is normally appropriate in the zoning district where it is permitted, but due to the specific characteristics of the area additional development standards are required to safeguard the public health, safety and welfare.

SECTION 7.100 FLOOD HAZARD AREA STANDARDS – FH

- (1) **Statement of Purpose**
It is the purpose of this Code to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
 - (a) To protect human life and health.
 - (b) To minimize expenditure of public money and costly flood control projects.
 - (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 - (d) To minimize prolonged business interruptions.
 - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard

- (f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- (g) To ensure that potential buyers are notified that property is in an area of special flood hazard.
- (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(2) **Methods of Reducing Flood Losses**

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

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage;
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- (f) Coordinating and supplementing the provisions of the state building code with local land use and development Codes

(3) **Definitions**

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

APPEAL means a request for a review of the interpretation of any provision of this Code or a request for a variance.

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

AREA OF SPECIAL FLOOD HAZARD means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

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

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

BASEMENT means any area of the building having its floor sub grade below ground level on all sides.

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

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

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

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

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

EXPANSION TO AN EXISTING MANUFACTURED DWELLING PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD” OR “FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

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

FLOOD INSURANCE STUDY (FIS) means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

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

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Code found at (7)(a) herein.

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

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

NEW CONSTRUCTION means structures for which the “start of construction” commenced on or after the effective date of this Code.

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

RECREATIONAL VEHICLE means a vehicle 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 towable by a light duty truck.
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

STATE BUILDING CODE means the state adopted and modified international and specialty building codes.

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

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

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

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

The term does not, however, include either:

- (c) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or

(d) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE means a grant of relief from the requirements of this Code that permits construction in a manner that would otherwise be prohibited by this Code. Variance procedures are found in **Code Section 2.600**.

WATER DEPENDENT USE means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term does not include long-term storage, manufacture, sales, or service facilities.

(4) **General Provisions**

This Code Section shall apply to all areas of Special Flood Hazard located within the jurisdiction of the City of Millersburg.

(a) **Basis for Area of Special Flood Hazard.** The areas of Special Flood Hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The "Flood Insurance Study" for Linn County, Oregon and Incorporated Areas" dated September 29, 2010, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this Code. The Flood Insurance Study is on file at the Millersburg City Hall, 4222 Old Salem Road N.E., Millersburg, Oregon 97321.

The best available information for flood hazard area identification as outlined in (5)(c)4. shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under (5)(c)4.

(b) **Establishment of Floodplain Development Permit.** A Conditional Use Floodplain Development Permit shall be required prior to initiating development activities in any Areas of Special Flood Hazard. A Conditional Use Floodplain Development Permit is a land use action requiring a quasi-judicial land use hearing.

(c) **Coordination with Building Codes.** The City of Millersburg administers and enforces the State Building Codes and acknowledges that the State Building Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard

(d) **Penalties for Noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Code and other applicable regulations. Violations of the provisions of this Code by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Code or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$ 750 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing

herein contained shall prevent the City of Millersburg from taking such other lawful action as is necessary to prevent or remedy any violation.

- (e) **Abrogation and Greater Restrictions.** This Code is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Code and another ordinance, state building code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
 - (f) **Severability.** If any section clause, sentence, or phrase of the Code is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Code.
 - (g) **Interpretation.** In the interpretation and application of this Code, all provisions shall be:
 - 1. Considered as minimum requirements,
 - 2. Liberally construed in favor of the governing body; and,
 - 3. Deemed neither to limit or repeal any other powers granted under State statutes and rules including the state building code.
 - (h) **Warning and Disclaimer of Liability.** The degree of flood protection required by this Code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Code shall not create liability on the part of the City of Millersburg any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Code or any administrative decision lawfully made hereunder.
- (5) **Administration**
The City Administrator shall administer and implement this Code as provided in **Code Section 1.170** and the Millersburg Planning Commission may grant or deny a Conditional Use development permit as specified in **Code Section 2.500**.
- (a) Application for a Conditional Use flood hazard development permit shall be made on forms furnished by the City of Millerburg as specified in **Code Sections 2.130 and 2.140** and shall include but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and other activities within the area of special flood hazard.
 - (b) Approval of a Conditional Use development permit in conformance with **Code Section 2.500** shall be obtained before construction or development begins within any area of Special Flood Hazard established in (4)(a) above.

The permit shall be for all structures including manufactured dwellings, as set forth in the "Definitions," and for all development including fill and other activities, also as set forth in the "Definitions." The following additional information shall be submitted:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
 2. Elevation in relation to mean sea level to which any structure has been floodproofed.
 3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria herein, (5), and (7)(b)3.
 4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (c) In addition to the standards and procedures of **Section 2.500**, the Planning Commission shall:
1. Determine that the requirements and conditions of this Code have been satisfied.
 2. Determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 3. Review all development proposals to determine if proposed development is located in the floodway or adversely affects the flood carrying capacity of the area of Special Flood Hazard. If located in a floodway, assure that the encroachment provisions of (7)(g)1. are met. For the purposes of this Code, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - a. If it is determined that there is no adverse effect, then the proposal shall be granted consistent with provisions of this Code without further consideration of these effects.
 - b. If it is determined that there is an adverse effect, then flood damage mitigation measures shall be made a condition of the approval.
 4. When base flood elevation data has not been provided (A Zones), in accordance with (4)(a) above, the Planning Commission shall obtain, review, and reasonably utilize any base flood elevation and floodway

- data available from a federal, state or other source, in order to administer this Code.
5. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals may be granted consistent with the standards of **Code Section 2.600** and **Section 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76)**.
 6. Notify adjacent communities and the Department of Land Conservation and Development and other appropriate state and federal agencies prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 7. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
 8. Information to be Obtained and Maintained:
 - a. Where base flood elevation data is provided through the Flood Insurance Study, FIRM or as required in (5)(c)4 above obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below grade crawlspace) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required (5)(c)4. above:
 1. Verify and record the actual elevation (in relation to mean sea level), and;
 2. Maintain the floodproofing certifications required in (7)(b)3.
 - c. Maintain for public inspection all records pertaining to the provisions of this Code.
- (d) In approving or disapproving a Flood Hazard Conditional Use development proposal, the Planning Commission shall also consider all technical evaluations, all relevant factors, standards specified in other sections of this Code, and:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location, where applicable.
6. The availability of alternative locations, for the proposed use that are not subject to flooding or erosion damage.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for that area.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges

(e) A Variance or an Appeal request may be submitted for consideration by the Planning Commission or City Council in accordance with **Code Section 2.600** for a Variance and **Code Section 3.700** for an Appeal. In addressing a request the Planning commission or City Council shall consider all technical evaluations, all relevant factors and standards specified in this Code including those specified in (5) (a) through (d) above. The Hearing Body may attach conditions to the granting of a Variance or an Appeal as it deems necessary to further the purposes of this Code.

(6) **Provision for Flood Hazard Reduction - General Standards**

In all areas of special flood hazards the following General Standards are required:

(a) Anchoring

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
2. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

(b) Construction Materials and Methods

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(d) Subdivision Proposals

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments that contain at least 50 lots or 5 acres (whichever is less).

(e) **Review of Building Permits**

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

(f) **AH Zone Drainage**

Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

(7) **Provision for Flood Hazard Reduction - Specific Development Standards.**

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in (4)(a), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or (5)(c)4. Use of Other Base Flood Data (In A and V Zones), the following provisions are required:

(a) **Residential Construction**

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(b) **Nonresidential Construction**

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Millersburg City Administrator.
4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in (7)(a)2 above.
5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

(c) Manufactured Dwellings

1. All manufactured dwellings to be placed or substantially improved on sites located:
 - a. Outside of a manufactured dwelling park or subdivision,
 - b. In a new manufactured dwelling park or subdivision,
 - c. In an expansion to an existing manufactured dwelling park or subdivision, or
 - d. In an existing manufactured dwelling park or subdivision on which a manufactured dwelling has incurred "substantial damage" as the result of a flood;

These manufactured dwellings shall be elevated on a permanent foundation such that the finished floor of the manufactured dwelling is elevated to a minimum 18 inches (46 cm) above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

2. Manufactured dwellings to be placed or substantially improved on sites in an existing manufactured home park or subdivision within

Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured dwelling provisions be elevated so that either:

- a. The finished floor of the manufactured home is elevated to a minimum of 18 inches (46 cm) above the base flood elevation, or
- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

(d) **Recreational Vehicles**

Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of (7)(c) above and the elevation and anchoring requirements for manufactured homes.

(e) **Below-grade Crawl Spaces**

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

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 below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
2. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.

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

For more detailed information refer to FEMA Technical Bulletin 11-01.

Accept the diagrams from the Technical Bulletin that illustrate the 2 ft./4 ft. rules but amend to correctly reference the State Building Code requirements to elevate 1 ft. above BFE for residential structures.

Citizens are advised that there is a charge added to the basic policy insurance premium for a below-grade crawlspace.

(f) **Before Regulatory Floodway**

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM,

unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(g) **Floodways**

Located within areas of special flood hazard established in (4)(a) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Except as provided in Item 3. below, prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2. If (7)(g)1. is satisfied, all new construction and substantial improvements shall comply with all applicable food Hazard reduction provisions of (6) and (7), Provisions For Flood Hazard Reduction.
3. Projects for stream habitat restoration may be permitted in the floodway provided:
 - a. The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,
 - b. A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 - c. No structures would be impacted by a potential rise in flood elevation; and,
 - d. An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
4. New installation of manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:
 - a. If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation,

and the continued use is not a threat to life, health, property, or the general welfare of the public; or

- b. A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria

1. As required by **44 CFR Chapter 1, Subpart 60.3(d)(3)**, it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;

2. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map;

3. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;

4. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;

5. The location of a replacement manufactured dwelling is allowed by the local planning department's Codes and

6. Any other requirements deemed necessary by the authority having jurisdiction.

(h) **Standards for Shallow Flooding Areas (AO ZONES)**

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, a minimum of one foot above the depth number specified on the FIRM (at least two feet if no depth number is specified).

2. New construction and substantial improvements of nonresidential structures within AO zones shall either:
 - a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 - b. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in (7)(b) 3.
3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
4. Recreational vehicles placed on sites within AO Zones on the community's FIRM either:
 - a. Be on the site for fewer than 180 consecutive days, and
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the requirement(7)(h) above and the elevation and anchoring requirements for manufactured homes.

(i) **Critical Facility**

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



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