



Oregon

Theodore R. Kulongoski, 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

April 7, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Damascus Plan Amendment
DLCD File Number 001-08



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: April 23, 2008

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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 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 DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Christine Shirley, FEMA Specialist
Bob Short, City of Damascus

<paa>

FORM 2

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person electronic mailed

DATE
STAMP

DEPT OF

APR 03 2008

LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: *City of DAMASCUS* Local file number: *Ord. No. 2008-25*

Date of Adoption: *MARCH 3, 2008* Date Mailed: *April 2, 2008*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one**Date:

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

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

An update of the Citys Flood HAZARD regulations to meet NATIONAL Flood Insurance Program regulations And continue participation in that program.

Does the Adoption differ from proposal? Please select one

NO

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

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

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

DLCD file No. *001-08*

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

FEMA, NFIP, FIS/FIRM, CLACKAMAS County

Local Contact: Bob Shont Phone: (503) 658-8545 Extension: 117
Address: 19920 S.E. Hwy 212 Fax Number: - -
City: DAMASCUS, OR Zip: 97089 E-mail Address: 503-658-5786
bsont@ci.damascus.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) 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
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

PROP

1 DLCD Notice of Proposed Amendment

in person electronic mailed

DEPT OF

APR 03 2008

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For DLCD Use Only

THIS FORM MUST BE RECEIVED BY DLCD AT LEAST 45 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING PER ORS 197.610, OAR CHAPTER 660, DIVISION 18

Jurisdiction: *City of Damascus* Local file number: *Ordinance No. 2008-25*
 Date First Evidentiary hearing: *Feb. 19, 2008* Date of Final Hearing: *March 3, 2008*
 Is this a revision to a previously submitted proposal? Yes No Date submitted:
 Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
 Land Use Regulation Amendment Zoning Map Amendment
 New Land Use Regulation Other:

Briefly Summarize Proposal. Do not use technical terms. Do not write "See Attached" (limit of 500 characters):
An ordinance updating the City's Flood HAZARD regulations to meet NATIONAL Flood Insurance program regulations and continue participation in that program.

Has sufficient information been included to advise DLCD of the effect of proposal? Select one

Plan map changed from: To:
 Zone map changed from: To:

Location of property (do not use Tax Lot):
 Previous density: New density: Acres involved:

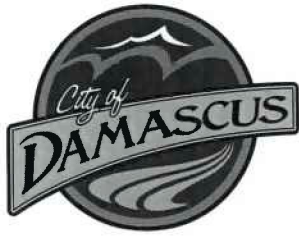
Applicable statewide planning goals:
 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Is an exception to a statewide planning goal proposed? YES NO Goals:
 Affected state or federal agencies, local governments or special districts (It is jurisdiction's responsibility to notify these agencies. DLCD only reports this information.):

FEMA, NFIP, FIS/FIRM, Clackamas County

Local Contact: *Bob Shont* Phone: (503) ~~658~~ *8545* Extension: *117*
 Address: *19920 S.E. Hwy 212* Fax Number: *503-658-5786*
 City: *DAMASCUS, OR* Zip: *97089* E-mail Address: *bshont@ci.damascus.or.us*

DLCD file No. *001-08*



City of
Damascus

19920 SE Highway 212
Damascus, OR 97089

www.ci.damascus.or.us

Phone: 503-658-8545
Fax: 503-658-5786

April 2, 2008

Plan Amendment Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540

Dear Plan Amendment Specialist:

The Damascus City Council recently adopted an ordinance related to Flood Hazard regulations, which amends Chapter 18.04 of the Damascus Municipal Code. Enclosed you will find a copy of the staff report, the signed ordinance, a completed Notice of Proposed Amendment form, and a completed Notice of Adoption form. The city regrets this ordinance was inadvertently processed without providing prior noticing to LCDC. Please provide any comments you might have regarding this ordinance.

Sincerely,

Bob Short
Associate Planner



City of
Damascus

19920 SE Highway 212
Damascus, OR 97089

www.ci.damascus.or.us

Phone: 503-658-8545

Fax: 503-658-5786

STAFF REPORT

March 3, 2008

**City Council
City of Damascus**

Councilmembers:

Second Reading – Ordinance No. 2008-25, an Ordinance relating to Flood Hazard Regulations and amending Chapter 18.04 of the Damascus Municipal Code

The Damascus Municipal Code was adopted by the Council in May 2007. This code includes Title 18 and Chapter 18.04 governing flood hazard regulations and areas. The Federal Emergency Management Agency (FEMA) has recently re-evaluated the flood hazards in Damascus and completed a new Flood Insurance Study and Rate Map (FIS/FIRM) that identifies these hazards and establishes Base Flood Elevations (BFE) for the community. These become effective on June 17, 2008.

As a result, FEMA has required that the city's flood hazard regulations be updated to meet National Flood Insurance Program (NFIP) regulations by the effective date of the FIRM. Communities that fail to enact the necessary regulations are suspended from participation in NFIP which can greatly affect the cost of flood insurance. The city has reviewed our current ordinance with FEMA and made the necessary changes which are reflected in the draft ordinance under consideration.

At the regular meeting of February 19, 2008, the Council moved the first reading of the ordinance by title only.

RECOMMENDATION

I recommend that Council:

1. Conduct the second reading and consider adoption of Ordinance No. 2008-25 an Ordinance relating to Flood Hazard Regulations and amending Chapter 18.04 of the Damascus Municipal Code, and read by title only.

Sincerely,

Jim Bennett
City Manager

**CITY OF DAMASCUS
ORDINANCE NO. 2008-25**

**AN ORDINANCE RELATING TO FLOOD HAZARD REGULATIONS AND AMENDING
CHAPTER 18.04 OF THE DAMASCUS MUNICIPAL CODE**

THE CITY OF DAMASCUS ORDAINS AS FOLLOWS:

The City hereby amends Chapter 18.04 (Flood Hazard Areas) of the Damascus Municipal Code as set forth in Exhibit A, (additional language underlined, deleted language stricken) attached hereto and incorporated herein by reference.

APPROVED AND ADOPTED this ____ day of _____, 2008.

Dee E. Wescott, Mayor

ATTEST:

Millicent Morrison, Clerk

EXHIBIT A

Title 18

FLOOD HAZARD REGULATIONS

Chapter 18.04

FLOOD HAZARD AREAS*

Sections:

- 18.04.010 Purpose.**
- 18.04.020 Methods of reducing flood losses.**
- 18.04.030 Definitions.**
- 18.04.040 Applicability.**
- 18.04.050 Basis for establishing areas of special flood hazard and flood management areas.**
- 18.04.060 Compliance required—Violation—Penalty.**
- 18.04.070 Abrogation and greater restrictions.**
- 18.04.080 Interpretation.**
- 18.04.090 Warning—Liability disclaimer.**
- 18.04.100 Development permit required.**
- 18.04.110 City Engineer—Designated administrator.**
- 18.04.120 City Engineer—Duties and responsibilities.**
- 18.04.130 Variance—Appeal board.**
- 18.04.140 Variance—Conditions.**
- 18.04.150 General standards.**
- 18.04.160 Specific standards.**
- 18.04.170 AE Zones with Base Flood Elevations but no Floodways.**
- 18.04.170180 Floodways.**
- 18.04.190 Critical Facilities.**

18.04.010 Purpose.

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

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard;
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- I. To maintain the functions and values of floodplains such as allowing for storage and conveyance of stream flows through existing and natural flood conveyance systems.

18.04.020 Methods of reducing flood losses.

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

EXHIBIT A

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

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

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging, and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

18.04.030 Definitions.

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

A. "Appeal" means to request review of the city's interpretation of any provision of this chapter or a request for a variance.

BC. "Area of special flood hazard" means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

CD. "Base flood" means the flood having a one-percent chance of being equaled or exceeded in any given year.

DE. "City" means the city of Damascus, Oregon.

E. "Critical Facilities:" means facilities 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.

FEF. "Critical feature" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

GFG. "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.

HGH. "Design flood height" means the elevation of the one hundred-year storm as defined in FEMA Flood Insurance Studies and shown as Zone AE on Flood Insurance Rate Maps.

IHH. "FEMA" means the Federal Emergency Management Agency.

JJJ. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

KJK. "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.

LKL. "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that

EXHIBIT A

includes flood profiles, ~~the Flood Boundary Floodway Map,~~ and the water surface elevation of the base flood.

MLM. "Flood management areas" means all lands contained within the one hundred-year floodplain, and floodway as shown on the Federal Emergency Management Agency Flood Insurance Rate Maps and Floodway Maps, and the areas designated as flood management areas on the Metro Water Quality and Floodplain Protection Plan, adopted in November 1996.

N. "Flood storage area" means that area below the design flood height but above bankful stage, which is capable of storing flood waters during a flood event.

O. "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.

P. "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."

Q. "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

R. "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

S. "Lowest floor" means the lowest floor of the lowest enclosed area (including basements and any crawlspace that is below grade). 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 nonelevation design requirements of this chapter.

T. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured homes" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term "manufactured homes" does not include park trailers, travel trailers, and other similar vehicles.

U. "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

V. "Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

W. "New construction" means structures for which the "start of construction"

EXHIBIT A

commenced on or after the effective date of the ordinance codified in this chapter.

X. "Recreational Vehicle" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

XY. "Remedy a violation" means to bring a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

YZ. "Start of construction" means and 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 one hundred eighty 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, footing, 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 dimension of the building.

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

BB. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition immediately before the occurrence of the damage would equal or exceed 50 percent of the market value of the structure before the damage occurred. ~~that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.~~

AACC. Substantial Improvement.

1. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty 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.

EXHIBIT A

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.

2. "Substantial improvement" does not include either:

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

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

BBDD. "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

CEEE. "Violation" means the failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the FEMA standards is presumed to be in violation until such time as that documentation is provided.

DEFF. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

18.04.040 Applicability.

A. This chapter shall apply to all special flood hazard areas and all flood management areas within the jurisdiction of the city.

B. In the event that a claim for just compensation is made against the city pursuant to Article I, Section 18 of the Oregon Constitution based on the application or enforcement of this Title, the city council may waive, suspend, or modify application or enforcement of this title if the city council determines that application or enforcement would result in an unconstitutional taking. In the event that the waiver, suspension or modification results in a state statute or regulation becoming directly applicable, the city will enforce the state law as required.

18.04.050 Basis for establishing special flood hazard and flood management areas.

A. The areas of special flood hazard identified by the Federal Insurance Administration in the scientific and engineering report entitled "The Flood Insurance Study for Clackamas County, Oregon, and incorporated areas," preliminarily dated September 30, 2006 with accompanying flood insurance rate maps ~~and floodway maps~~, and other FEMA maps and studies for those areas annexed or restudied, are adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at 19920 SE Highway 212, Damascus, Oregon.

B. Those areas designated as flood management areas on the water quality and flood management areas maps prepared by Metro are adopted by reference and declared to be a part of this chapter. Copies of the Metro Water Quality and Flood Management

EXHIBIT A

Areas Maps for the City of Damascus are on file at 19920 SE Highway 212, Damascus, Oregon.

18.04.060 Compliance required— Violation—Penalty.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter shall be punishable by a fine of not more than one thousand dollars. Nothing contained in this subsection shall prevent the city from taking such other lawful action as is necessary to remedy any violation.

18.04.070 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

18.04.080 Interpretation.

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

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the city; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

18.04.090 Warning—Liability disclaimer.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific

and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural cases. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

18.04.100 Development permit required.

A development permit shall be obtained before construction or development begins within any special flood hazard or flood management area established in Section 18.04.050. The permit shall be for all structures, including manufactured homes, as set forth in Section 18.04.030 and for all other development including fill and other activities, also as set forth in Section 18.04.030. Application for a development permit shall be made on forms furnished by the ~~C~~City ~~E~~Engineer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- B. Elevation in relation to mean sea level to which any structure has been floodproofed;

EXHIBIT A

C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 18.04.16013160(B)(3); and

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

18.04.110 ~~Engineering Director~~City Engineer—Designated administrator.

The ~~engineering director~~City Engineer is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

18.04.120 ~~Engineering Director~~City Engineer—Duties and responsibilities.

Duties of the ~~engineering director~~City Engineer shall include, but not be limited to:

A. Permit Review.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

3. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure

resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. Be constructed with materials resistant to flood damage;

c. Be constructed by methods and practices that minimize flood damages; and

d. Be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. Use of Available Base Flood Data. When base flood and floodway elevation data has not been provided for flood zones in accordance with Section 18.04.050, the ~~City Engineer~~City Engineer shall obtain, review and reasonably utilize any base flood and floodway elevation data available from a federal, state or other source, in order to administer Sections 18.04.160(A), ~~and and~~ Section 18.04.160180, ~~(B)~~.

C. Information to be Obtained and Maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2. For all new or substantially improved floodproofed structures:

a. Verify and record the actual elevation (in relation to mean sea level), and

b. Maintain the floodproofing certifications required in Section 18.04.100(C) of this Chapter.

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

EXHIBIT A

D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Land Conservation and Federal Emergency Management Agency (FEMA), Insurance and Mitigation Division, Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

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

E. ~~Inter~~pretation of FIRM and flood management area boundaries. Make interpretations, where needed, as to exact location of the boundaries of the special flood hazard and/or flood management areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 18.04.130.

18.04.130 Variance—Appeal board.

A. The City Council shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The City Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the ~~C~~city ~~E~~ngineer in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the City Council, or any taxpayer, may have the determination reviewed by the ~~e~~City ~~e~~Council and then under ORS 34.010 to 34.100.

D. In passing upon such applications, the City Council shall consider all technical

evaluations, all relevant factors and standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto lands to the injury of others;

2. The danger of 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 which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing anticipated development;

8. The relationship of the proposed use to the comprehensive plan and floodplain 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; and

12. The balancing of potentially adverse environmental impacts that may result from meeting the requirements of this Chapter

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against the need to minimize impacts of new development on flood heights.

E. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subdivisions 1 through 12 of Subsection (D) of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

F. Upon consideration of the factors of Subsection (D) of this section and the purposes of this chapter, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

G. The ~~CC~~city ~~EE~~engineer shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

18.04.140 Variance—Conditions.

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

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

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

D. Variances shall only be issued upon findings of the following:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense or create nuisances, cause fraud on or victimization of the public as identified in Section 18.04.010 or conflict with existing local laws or ordinances; and

4. That there are no practicable alternatives to the variance.

E. The City Council may impose such conditions as are necessary to limit any adverse flooding or environmental impacts that may result from granting relief.

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

18.04.150 General standards.

In all special flood hazard and all flood management areas the following 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 shall be anchored to resist flotation, collapse or lateral

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movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

a. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than fifty feet long requiring one additional tie per side;

b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than fifty feet long requiring four additional ties per side;

c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred pounds; and

d. Any addition to the manufactured home be similarly anchored.

3. An alternative method of anchoring may involve a system designed to withstand a wind force of ninety miles per hour or greater. Certification must be provided to the City Engineer that this standard has been met.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utilize 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; and

3. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

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. Base flood elevation data shall be provided for subdivision proposals and other proposed development ~~which~~ that contain at least fifty lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data are not available, 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 the highest adjacent grade in these zones may result in higher insurance rates.

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F. **Balanced Cut and Fill.** The displacement of flood storage area by the placement of fill or structures (including building foundations) shall conform to the following standards in addition to the requirements of Section 18.04.180 for balanced cut and fill:

1. The placement of fill or structures that displaces ten cubic yards or less of flood storage area is exempt from the requirements of Section 18.04.150(F)(2);

2. The placement of fill or structures that displaces more than ten cubic yards of flood storage area shall comply with the following standards:

a. No net fill in any floodplain is allowed.

b. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removal.

c. Any excavation below bankful stage shall not count toward compensating for fill.

d. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation may be located in the same drainage basin and as close as possible to the fill site subject to the following:

1. The proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis;

~~2. The proposed excavation is authorized under applicable municipal code provisions including Section 19.322 Natural Resource Overlay Zone; and~~

~~3. Measures to ensure the continued protection and preservation of the excavated area for providing balanced cut and fill shall be approved by the city.~~

e. Temporary fills permitted during construction shall be removed at the end of construction.

f. New culverts, stream crossings, and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

g. Excavation and fill required for the construction of detention facilities or structures, and other facilities, shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

18.04.160 Specific standards.

In all special flood hazard and flood management areas where base flood elevation data has been provided as set forth in Sections 18.04.050 and 18.04.120(B), 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 one foot or more above base flood elevation.

2. Fully enclosed areas below the lowest floor that are subject to flooding 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

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engineer or architect or must meet or exceed the following minimum criteria:

- i. 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.
- ii. The bottom of all openings shall be no higher than one foot above grade.
- iii. 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 one foot above design flood height, or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below one foot above the design flood height 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; and
3. Be certified by a registered professional engineer or architect that the design and methods of construction satisfy are in accordance with accepted the standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certificates shall be provided to this official as set forth in Section 18.04.120(C).
4. Nonresidential structures that are elevated, not floodproofed, must meet the same

standards for space below the lowest floor as described in Section 18.04.160(A)-(2).

C. Manufactured Homes.

1. All manufactured homes to be placed or substantially improved within zones AI-30, AH, and AE (as identified on flood insurance rate maps) shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more at or above the design flood height and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 18.04.150(A).

2. For new manufactured home parks and manufactured home subdivisions; for expansions to existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for manufactured homes not placed in a manufactured home park or manufactured home subdivision, it is required that:

- a. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be elevated one foot or more above design flood height;
- b. Adequate surface drainage and access for a hauler are provided; and
- c. In the instance of elevation on pilings, that:
 - i. Lots are large enough to permit steps,
 - ii. Piling foundations are placed in stable soil no more than ten feet apart, and
 - iii. Reinforcement is provided for pilings more than six feet above the ground level.

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3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park or existing manufactured home subdivision.

D. Recreational Vehicles

Recreational vehicles placed on sites are required to either:

1. Be on the site for fewer than 180 consecutive days; ~~or~~
2. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Meet the requirements of 18.04.160(C) and the elevation and anchoring requirements for manufactured homes.

18.04.170 AI-30 and AE Zones with Base Flood Elevations but no Floodways.

In areas with base flood elevations (wherebut a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones AI-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

D. Miscellaneous Provisions:

- ~~1. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding 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 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. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~

~~2. Provisions of this chapter are to be administered concurrently with those of Ordinance xxx, the zoning ordinance of the city.~~

18.04.1870 Floodways.

Located within areas of special flood hazard established in Section 18.04.050 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

A. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If ~~s~~Subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 18.04.150 through this section.

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18.04.190 Critical Facilities.

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.