



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

8/17/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Bandon Plan Amendment
DLCD File Number 003-09

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, August 27, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Charlice Davis, City of Bandon
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Chris Shirley, FEMA Specialist
Steve Lucker, DLCD

Denise Atkinson

<paa> YA

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DLCD

DEPT OF

Notice of Adoption

AUG 10 2009

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

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

Jurisdiction: **City of Bandon**

Local file number: **FIRM Adoption**

Date of Adoption: **8/3/2009**

Date Mailed: **8/6/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **6/3/2009**

- 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 Ordinance Adopts the 2009 FIRM Maps and Flood Insurance Study and revises the current Chapter 15.28 Flood Insurance, of the Bandon Municipal Code to reflect the amendments required by the Federal Emergency Management Agency.

Does the Adoption differ from proposal? **No**, no explanation is necessary

Plan Map Changed from: **N/C**

to: **N/C**

Zone Map Changed from: **N/C**

to: **N/C**

Location: **within the City limits.**

Acres Involved: **0**

Specify Density: Previous: **N/C**

New: **N/C**

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

- 45-days prior to first evidentiary hearing? Yes No
- If no, do the statewide planning goals apply? Yes No
- If no, did Emergency Circumstances require immediate adoption? Yes No

ORDINANCE NO. 1577

AN ORDINANCE AMENDING CHAPTER 15.28, FLOODPLAIN INSURANCE, OF THE BANDON MUNICIPAL CODE, ADOPTING THE SEPTEMBER 24, 2008 FLOOD INSURANCE STUDY, AND THE FLOOD INSURANCE RATE MAP EFFECTIVE SEPTEMBER 25, 2009.

WHEREAS, the City of Bandon participates in the National Flood Insurance Program; and,

WHEREAS, the Bandon Municipal Code sets forth the regulatory measures the City must apply to qualify for the Flood Insurance Program; and,

WHEREAS, such regulatory measures are dependent upon flood information which has been supplied by the federal government; and,

WHEREAS, the Federal Emergency Management Agency (FEMA) has issued an updated Flood Insurance Study (FIS) and Flood Insurance Rate Map (MAP) for Bandon; and,

WHEREAS, the City is required to incorporate this new technical information into its current flood plain management program and to make such information effective on September 25, 2009;

NOW THEREFORE, BE IT RESOLVED, the Mayor and Council of the City of Bandon does hereby amend Bandon Ordinance No. 15.28, in compliance with Title 44, Chapter 1, part 67, of the Federal Code of Regulations, with the following new language:

ARTICLE I. GENERAL PROVISIONS AND DEFINITIONS.

15.28.040 METHODS OF REDUCING FLOOD LOSSES.

F. Coordinating and supplementing the provision of State Building Codes Division with local land use and development ordinances.

15.28.050 DEFINITIONS.

“Basement” means any area of the building having its floor sub-grade (below ground level) on all sides.

“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.

“Fill” means the placement of sand, sediment, rock, soil, dirt, concrete, or other material to raise the elevation of land.

“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.

“Letter of Map Amendment” (LOMA) means a certification from the Federal Emergency Management Agency which shows, through a survey, that the natural grade of a property is higher than the BFE (Base Flood Elevation). It does not change the existing FIRM.

“Letter of Map Revision” (LOMR) means a modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

“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.

“Waterway” means the area below the mean high water mark of any named ocean, river, stream, creek, lake, pond, or other body of water.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

15.28.070 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

~~The information contained in the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) for the Bandon area issued by the Federal Emergency Management Agency which became effective on February 18, 1998~~**September 25, 2009**, are adopted by reference and declared to be a part of this chapter. Information contained in the FIS and FIRM shall be used as the basis for determining areas of special flood hazard as a part of the city’s floodplain management program. The FIS and FIRM are on file at Bandon City Hall.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “**The Flood Insurance Study for Coos County, Oregon and Incorporated Areas**”, dated **September 25, 2009**, with accompanying Flood Insurance Map (FIRM) is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study and the FIRM are on file at City Hall.

15.28.080 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair ~~any existing easements, covenants, or deed restrictions, Oregon State Building Codes, or other state or federal requirements.~~ However, where this chapter and another ordinance, **Oregon State Building Codes, or other state or federal requirements**, conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.28.120 APPLICATION FOR DEVELOPMENT PERMIT.

- E. Elevation Certificate, prepared by a registered professional surveyor, shall be submitted and approved by the City of Bandon, prior to the issuance of a Certificate of Occupancy.

ARTICLE III. PROVISIONS FOR FLOOD HAZARD PROTECTION

F. Letters of Map Correction

1. All documentation (including surveys) for the purpose of obtaining a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), or any proposed change to the FIRM Map, shall be submitted and verified by the City Engineer, at the Applicant's expense, prior to submission to Federal Emergency Management Agency.
2. If a letter of Map Correction is issued by the Federal Emergency Management Agency, the property owner shall provide copies of all related documentation prior to any development of the site.

15.28.170 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.28.070, Basis for Establishing the Areas of Special Flood Hazard, or Section 15.28.140(B), Use of Other Base Flood Data, 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 or above base flood elevation~~ **a minimum of one foot above base flood elevation.**

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 or above base flood elevation~~ **a minimum of one foot above base flood elevation;**

C. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1--30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is ~~at or above the base flood elevation~~ **at least eighteen inches (18") above the base flood elevation** and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 15.28.160(A)(2).

15.28.190 Coastal high hazard areas.

A. All new construction and substantial improvements in zones V1–V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:

1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated **at least one foot** above the base flood level;

AND, BE IT RESOLVED, the Mayor and Council of the City of Bandon adopts the September 24, 2008 Flood Insurance Study for Coos County by Michael Baker, Jr., Inc., as submitted in compliance with Title 44, Chapter I, part 67, of the Federal Code of Regulations.

AND, BE IT RESOLVED, the Mayor and Council of the City of Bandon adopts the September 24, 2008 Flood Insurance Study for Coos County by Michael Baker, Jr., Inc., as submitted in compliance with Title 44, Chapter I, part 67, of the Federal Code of Regulations.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Bandon that the City of Bandon Municipal Code is hereby amended as stated above, that the September 24, 2008 Flood Insurance Study for Coos County by Michael Baker, Jr., Inc., is adopted, as submitted in compliance with Title 44, Chapter I, part 67, of the Federal Code of Regulations, and the Flood Insurance Rate Map which becomes effective on September 25, 2009, is adopted, as submitted in compliance with Title 44, Chapter I, part 67, of the Federal Code of Regulations.

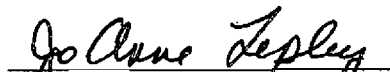
IN AS MUCH as it is necessary for the health, safety, comfort and convenience of the people of the City of Bandon that this Ordinance have immediate effect, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED to a second reading this 3rd day of August, 2009, on a roll call vote, 6 : 0.

ADOPTED by the City Council of the City of Bandon this 3rd day of August, 2009, on a roll call vote, 6 : 0.


Mary Schamehorn, Mayor

Attest:


Jo Anne Lepley, City Recorder

Chapter 15.28

FLOODPLAIN INSURANCE

Sections:

Article I. General Provisions and Definitions

- 15.28.010 Adoption, statutory provisions and title.
- 15.28.020 Purpose.
- 15.28.030 Findings of fact.
- 15.28.040 Methods of reducing flood losses.
- 15.28.050 Definitions.

Article II. Administration and Enforcement

- 15.28.060 Lands to which this chapter applies.
- 15.28.070 Basis for establishing the areas of special flood hazard.
- 15.28.080 Abrogation and greater restrictions.
- 15.28.090 Interpretation.
- 15.28.100 Warning and disclaimer of liability.
- 15.28.110 Development permit required.
- 15.28.120 Application for development permit.
- 15.28.130 Designation of the city manager.
- 15.28.140 Duties and responsibilities of the city manager.
- 15.28.150 Penalties for noncompliance.

Article III. Provisions For Flood Hazard Protection

- 15.28.160 General standards.
- 15.28.170 Specific standards.
- 15.28.180 Floodways.
- 15.28.190 Coastal high hazard areas.
- 15.28.200 Shallow flooding areas with depth designations.

Article V. Variance Procedures

- 15.28.210 Appeal board.
- 15.28.220 Conditions for variances.

Ordinance History: #1203, 1393, 1577

Article I. General Provisions and Definitions

15.28.010 Adoption, statutory provisions and title.

- A. This chapter is adopted by the city of Bandon.
- B. This chapter is enacted pursuant to the provisions of ORS 203.035, ORS Chapter 92 and ORS Chapter 215.
- C. This chapter shall be known as "an ordinance for the city of Bandon floodplain insurance."

15.28.020 Purpose.

The purpose of this chapter is to establish the eligibility of city residents in the National Flood Insurance Program, 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; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15.28.030 Findings of fact.

- A. The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commercial and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
- C. This chapter is consistent with Statewide Planning Goal 7, "Areas Subject to Natural Disasters and Hazards." This chapter will subject building and land division permit requests within flood prone areas to evaluation on the basis of existing hazards. Goal #7 encourages cities to qualify for inclusion in the National Flood Insurance Program.

15.28.040 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter 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 which 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; 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.
- F. Coordinating and supplementing the provision of State Building Codes Division with local land use and development ordinances.

15.28.050 Definitions.

Unless specifically defined below, 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.

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

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

"Area of special flood hazard" means the land in the floodplain 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. Designation on maps always includes the letter A or V.

"Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.

"Breakaway walls" means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high hazard area" means the area subject to high velocity waters, including but not limited to storm surge or tsunamis. The area is designated on a FIRM as Zone VI-30, VE or V.

"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 and 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.

"Fill" means the placement of sand, sediment, rock, soil, dirt, concrete, or other material to raise the elevation of land.

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

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

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

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

"Letter of Map Amendment" (LOMA) means a certification from the Federal Emergency Management Agency which shows, through a survey, that the natural grade of a property is higher than the BFE (Base Flood Elevation). It does not change the existing FIRM.

"Letter of Map Revision" (LOMR) means a modification to an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

"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 chapter found at Section 15.28.170(A)(2).

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles. The term "manufactured home" does not include a "recreational vehicle".

"Mean sea level" means the average height of the sea for all stages of the tide.

"New construction" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

"Recreational Vehicle" means a vehicle which is:

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

"Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (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 foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"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:

1. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
 - a. Before the improvement or repair is started;
 - 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.
2. The term does not, however, include either:
 - a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

"Waterway" means the area below the mean high water mark of any named ocean, river, stream, creek, lake, pond, or other body of water.

Article II. Administration and Enforcement

15.28.060 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Bandon.

15.28.070 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Coos County, Oregon and Incorporated Areas", dated September 25, 2009, with accompanying Flood Insurance Map

(FIRM) is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study and the FIRM are on file at City Hall. (Ord. 1577 8-03-09)

15.28.080 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair Oregon State Building Codes, or other state or federal requirements. However, where this chapter and another ordinance, Oregon State Building Codes, or other state or federal requirements, conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.28.090 Interpretation.

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

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

15.28.100 Warning and disclaimer of liability.

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 causes. 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 of Bandon or any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

15.28.110 Development permit required.

- A. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.28.070. The permit shall be for all structures including manufactured homes, as set forth in the definitions, and for all other development including fill and other activities, also set forth in the definitions.

15.28.120 Application for development permit.

Application for a development permit shall be made on forms furnished by the city manager 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;
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 15.28.170(B); and
- D. Description of the extent to which a watercourse will be altered as a result of proposed development.

- E. An Elevation Certificate, prepared by a registered professional surveyor, shall be submitted and approved by the City of Bandon, prior to the issuance of a Certificate of Occupancy.
(Ord. 1577 8-03-09)

15.28.130 Designation of the city manager.

The city manager is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

15.28.140 Duties and responsibilities of the city manager.

Duties of the city manager 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;
- B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.28.070, Basis for Establishing the Areas of Special Flood Hazard, the city manager shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 15.28.170, Specific Standards, and 15.28.180, Floodways;
- C. Information to be Obtained and Maintained.
1. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection B of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest 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 flood-proofed structures:
 - a) Verify and record the actual elevation (in relation to mean sea level), and
 - b) Maintain the flood-proofing certification required in Section 15.28.120(C),
 3. Maintain for public inspection all records pertaining to the provisions of this chapter,
 4. In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters;
- D. Alteration of Watercourses.
1. Notify adjacent communities and the Department of Land Conservation and 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. Interpretation of FIRM Boundaries. Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 15.28.210 and 15.28.220.

15.28.150 Penalties for noncompliance.

No structures 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 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 chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five thousand dollars (\$5,000.00) or imprisoned for not more than ninety (90) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Article III. Provisions For Flood Hazard Protection

15.28.160 General standards.

In all areas of special flood hazards, 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 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 flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
3. On-site 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; and
 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 development which contact at least fifty (50) lots or five acres (whichever is less).
- E. Review of Building Permits. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source (Section 15.28.140(B)), 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 zones may result in higher insurance rates.
- F. Letters of Map Correction
1. All documentation (including surveys) for the purpose of obtaining a Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), or any proposed change to the FIRM Map, shall be submitted and verified by the City Engineer, at the Applicant's expense, prior to submission to Federal Emergency Management Agency.
 2. If a letter of Map Correction is issued by the Federal Emergency Management Agency, the property owner shall provide copies of all related documentation prior to any development of the site.

15.28.170 Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.28.070, Basis for Establishing the Areas of Special Flood Hazard, or Section 15.28.140(B), Use of Other Base Flood Data, 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 at least one foot above 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 floodwater. 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 flood water.

- 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 at least one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be flood-proofed 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 official as set forth in Section 15.28.140(C)(2);
4. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in subsection (A)(2) of this section;
5. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

C. **Manufactured Homes.** All manufactured homes to be placed or substantially improved within Zones A1–30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least eighteen inches (18") above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 15.28.160(A)(2).

15.28.180 Floodways.

Located within areas of special flood hazard established in Section 15.28.070 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development 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 subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article III of this chapter, Provisions for Flood Hazard Reduction.

15.28.190 Coastal high hazard areas.

Located within areas of special flood hazard established in Section 15.28.070 are coastal high hazard areas, designated as Zones V1–V30, VE and/or V. These areas have special flood hazards associated with high-velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this chapter, the following provisions shall also apply:

- A. All new construction and substantial improvements in zones V1–V30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:
 1. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least one foot above the base flood level; and
 2. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water

loading values shall each have a one percent chance of being equaled or exceeded in any given year (one hundred (100) year mean recurrence interval).

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsection (A)(1) and (2) of this section.

- B. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in Zones V1–30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- C. All new construction shall be located landward of the reach of mean high tide.
- D. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood latticework, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - 1. The breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one hundred (100) year mean recurrence interval).
- E. If breakaway walls are utilized, such enclosed space shall be solely usable for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- F. Prohibit the use of fill for structural support of buildings.
- G. Prohibit man-made alteration of sand dunes which would increase potential flood damage.

15.28.200 Shallow flooding areas with depth designations.

Shallow zones appear on FIRM's as AO zones with depth designations. The base flood depths in these zones range from one to three feet 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:

- A. New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM. Where appropriate, such structures shall be elevated above the crown of the nearest

road, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified).

- B. New construction and substantial improvements of nonresidential structures within AO zones shall either:
1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
 2. 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 buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Section 15.28.170(B)(3);
 3. Require adequate drainage paths around structures on slopes to guide flood water around and away from proposed structures.

Article V Variance Procedures.

15.28.210 Appeal board.

- A. The planning commission of the city shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The planning commission shall hear and decide appeals when a determination is made by the city manager in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the planning commission may appeal such decision to the city council.
- D. In passing upon such application, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
1. The danger that materials may be swept into 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 which 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 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; and
 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. Generally, the only condition under which a variance may be issued is for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the provisions of subsection (D)(1)–(11) 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 planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- G. The city manager shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

15.28.220 Conditions for variances.

- 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 only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Variances shall only be issued upon:
 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, create nuisances, cause fraud on or victimization of the public as identified in Section 15.28.210(D), or conflict with existing local laws or ordinances.
- D. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- E. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- F. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except this section, and otherwise complies with Section 15.28.160(A) and (B) of this chapter.
- G. 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 elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

