



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

8/28/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Myrtle Point Plan Amendment
DLCD File Number 001-09

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, September 10, 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: Vicki Strader, City of Myrtle Point
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Chris Shirley, FEMA Specialist

<paa> Y

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

(See second page for submittal requirements)

Jurisdiction: City of Myrtle Point

Local File No.:

(If no number, use none)

Date of Adoption: August 3, 2009
(Must be filled in)

Date Mailed: August 5, 2009
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 4/9/2009

☐ Comprehensive Plan Text Amendment

☒ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

(Please Specify Type of Action)

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

Myrtle Point amended Ordinance No. 1096, Article 8, Special Overlay Zones and stated an effective date to be in compliance with the Oregon Model Flood Damage Prevention Ordinance.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same". If you did not give notice for the proposed amendment, write "N/A". Correction made per DLCD on page 4 Section 8.140

Plan Map Changed from: N/A

to: update flood plain ordinance

Zone Map Changed from: N/A

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable Statewide Planning Goals:

Was an Exception Adopted? Yes: ☐

No: ☒

Does Adopted Amendment affect the areas in unincorporated Washington County where the

Zoning Code applies? Yes ☐ No ☒

DLCD File No.: 001-09 (17498) [15682]

DEPT OF

AUG 21 2009

LAND CONSERVATION
AND DEVELOPMENT

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: ☒ No: ☐

If no, do the Statewide Planning Goals apply. Yes: ☐ No: ☐

If no, did The Emergency Circumstances Require immediate adoption. Yes: ☐ No: ☐

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Vicki Strader Area Code + Phone Number: 541-572-2626
Address: 424 5th St. City: Myrtle Point
Zip Code+4: 97458 Email Address: vickis@mycomspan.com

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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 copy this form on to 8-1/2x11 green paper only ; or 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.

ORDINANCE NO. 1255

**AN ORDINANCE AMENDING ORDINANCE NO. 1096, ARTICLE 8, SPECIAL
OVERLAY ZONES AND STATING AN EFFECTIVE DATE.**

WHEREAS, the Federal Emergency Management Agency and Department of Land Conservation and Development have developed an Oregon Model Flood Damage Prevention Ordinance; and

WHEREAS, the City of Myrtle Point is mandated to update our local ordinance to be in compliance with the Oregon Model Flood Damage Prevention Ordinance; and

WHEREAS, adoption of the Oregon Model Flood Damage Prevention Ordinance is required for local citizens to have an opportunity to purchase flood insurance; and

WHEREAS, the Oregon Model Flood Damage Ordinance has been reviewed and slight changes made to reflect local conditions.

THE CITY OF MYRTLE POINT ORDAINS AS FOLLOWS:

SECTION 1. AMENDMENT

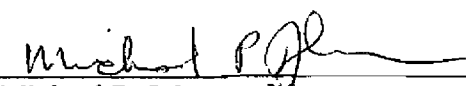
Ordinance No. 1096, Article 8, Special Overlay Zones is hereby amended by Attachment "A" attached hereto and made part of this ordinance by reference.

SECTION 2. EFFECTIVE DATE

This ordinance shall take effect immediately upon its final passage by a unanimous vote of the Council members present and voting.

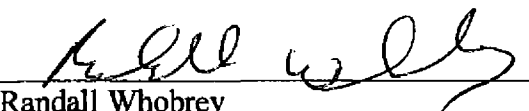
First read to the Council this 3rd day of August 2009.

Signed by the Mayor this 3rd day of August 2009.



Michael P. Johnson, Mayor
City of Myrtle Point

ATTEST:



Randall Whobrey
Interim City Manager
City of Myrtle Point

Article 8. Special Overlay Zones

SECTION 8.000 Special Overlay Zone Provisions. Overlay zone provisions shall be applied in addition to other zone requirements as indicated by the Overlay Zone designations set forth on the amended zone map and in this article.

FLOODPLAIN OVERLAY ZONE (FP)

SECTION 8.100 STATEMENT OF PURPOSE AND INTENT

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

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

SECTION 8.110 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, these flood provisions include methods and provisions for:

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

SECTION 8.120 DEFINITIONS

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

Where there is no definition in Ordinance 1096, the definitions in section 8.120 apply to Article 8. The definitions in this section apply within the context of applying Flood Provisions. However, where this section and another city ordinance or another section of this ordinance conflict or overlap whichever imposes the more stringent restrictions shall prevail.

"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. The path of flooding is unpredictable and indeterminate; and, velocity flow may be evident, also known as sheet flow. AO is characterized as sheet flow and AH indicates ponding.

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

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

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

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

"MAN-MADE CHANGE TO IMPROVED OR UNIMPROVED REAL ESTATE" includes but is not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

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

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

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

"FLOOD" OR "FLOODING" means a general and temporary condition of partial or complete inundation of normally dry lands 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.

"FLOOD PREVENTION VARIANCE" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

"FLOODPLAIN" See "AREA OF SPECIAL FLOOD HAZARD"

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

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable 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 the flood provisions found at Section 8.330(2).

"NEW CONSTRUCTION" means structures for which the "start of construction" commenced on or after the effective date of the flood provisions.

"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.

"REQUEST FOR REVIEW" means a request for a review of the interpretation of any of the flood provisions or a request for a waiver as defined in Article 8.

"STATE BUILDING CODE" means the combined specialty codes.

"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.

GENERAL PROVISIONS

8.130 LANDS TO WHICH THESE FLOOD PROVISIONS APPLY

This flood provision shall apply to all areas of special flood hazards within the jurisdiction of Myrtle Point, Coos County.

8.140 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 Maps are hereby adopted by reference and declared to be a part of this flood provision. The Flood Insurance Study is on file at Myrtle Point City Hall, 424 5th St. The best available information for flood hazard area identification as outlined in Section 8.200(1-9) shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under Section 8.200(1-9)

8.150 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of the flood provision and other applicable regulations. Violations of the provisions of the flood provision by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation of the zoning ordinance. Any person who violates this flood provision or fails to comply with any of its requirements shall upon conviction thereof be fined up to \$500/day, and in addition shall pay all costs and expenses involved. Nothing herein contained shall prevent the city of Myrtle Point from taking such other action as is necessary to prevent or remedy any violation.

8.160 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this flood provision 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 flood provision 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 flood provision shall not create liability on the part of Myrtle Point, Coos County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this flood provision or any administrative decision lawfully made hereunder.

8.170 CITY ADMINISTRATION OF ZONING CLEARANCE PERMITS AND MAINTENANCE OF RECORDS

8.180 Zoning Clearance Permit Required

A zoning clearance permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 8.140. The permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including grading, filling, storage of materials, and other activities, also as set forth in the "DEFINITIONS."

8.190 Permit Procedure

- (1) Review all zoning permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 8.390(1) are met.
- (2) Review all zoning permits to determine that the permit requirements have been satisfied.
- (3) The Planning Department will maintain the flood proofing certifications required in Section 8.200(3), which shall be provided to the city by the applicant's engineer.

8.200 Application for Zoning Clearance Permit

Applicants of properties located in flood areas shall furnish to the City of Myrtle Point, an Engineer's Report. This report will then be given to the City's Engineer for approval.

APPLICANTS ENGINEER REPORT REQUIREMENTS: Application for a zoning clearance permit shall be prepared by the applicant's engineer to the specifications of the Myrtle Point Planning Department 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, grading, filling, storage of materials, drainage, facilities, and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level of flood proofing in any structure;

- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 8.340, and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- (5) Address all applicable permits and indicate the status of all applications from those Federal, State, and local government agencies from which prior approval is required.
- (6) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (7) For all new or substantially improved flood proofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM:
 - (i) Verify and record the actual elevation (in relation to mean sea level), and
 - (ii) Provide the flood proofing certifications required in Section 8.200(3)
- (8) Provide to the city, analysis and findings pertaining to the provisions of this ordinance and specifically section 8.200.
- (9) Elevation certificates shall be issued to the City of Myrtle Point.

The City of Myrtle Point will maintain the flood proofing certifications required in Section 8.200 and all documentation provided by the Applicant's Engineer for the permanent record.

8.210 CONDITIONS FOR FLOOD PREVENTION VARIANCES

- (1) Generally, the only condition under which a flood prevention variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 8.220 have been fully considered. As the lot size increases the technical justification required for issuing the flood prevention variance increases.
- (2) Flood Prevention Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- (3) Flood Prevention Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Flood Prevention Variances shall only be issued upon a determination that the flood prevention variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Flood Prevention Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the flood prevention variance would result in exceptional hardship to the applicant;
 - (iii) A determination that the granting of a flood prevention 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 8.220, or conflict with existing local laws or ordinances.

(6) Flood Prevention Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or 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, flood prevention variances from the flood elevations should be quite rare.

(7) Flood Prevention 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 flood prevention variance criteria except 8.210, and otherwise complies with Sections 8.280 of the GENERAL STANDARDS.

(8) Any applicant to whom a flood prevention 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.

8.220 FLOOD PREVENTION VARIANCE PROCEDURE

The applicant's engineer shall address the following: all technical evaluations, all relevant factors and standards specified in other sections of this ordinance. The applicant's engineer shall include the following in a report addressing what is applicable. The city's engineer will then approve the report.

- (i) The danger that materials may be swept onto other lands to the injury of others;
- (ii) The danger to life and property due to flooding or erosion damage;
- (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) The importance of the services provided by the proposed facility to the community;
- (v) The necessity to the facility of a waterfront location, where applicable;
- (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) The compatibility of the proposed use with existing and anticipated development;
- (viii) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

- (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and street and bridges.

8.230 REVIEW OF BUILDING PERMITS

All applications in the floodway are required to provide a no rise engineered certificate.

Where elevation data is not available whether through the Flood Insurance Study or FIRM, the applicant's engineer shall show another authoritative source (Section 8.200). Applications for zoning clearance permits shall include engineer's analysis sufficient to assure that proposed construction will be reasonably safe from flooding. The test or reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above grade in these zones may result in higher insurance rates.

8.240 ALTERATION OF WATERCOURSES

- (1) Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

8.250 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 request for review the interpretation as provided in Section 8.210 and 8.200.

SECTION 8.260

PROVISIONS FOR FLOOD HAZARD REDUCTION – Sections 8.270-8.350 administered by State Building Codes

8.270 GENERAL STANDARDS

In all areas of special flood hazards, the following standards are required:

8.280 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).

8.290 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.

8.300 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 system 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 consistent with the Oregon Department of Environmental Quality.

8.310 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 or eliminate 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 developments which contain at least 50 lots or 5 acres (whichever is less).

8.320 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in Section 8.140, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or Use of Other Base Flood Data (in A Zone), the following provisions are required:

8.330 RESIDENTIAL CONSTRUCTION

- (1) New Construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one foot above the base flood elevation.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (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.

8.340 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 or above the 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 8.240(2);
- (4) Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in 8.330(2);
- (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 flood proofed to the base flood level will be rated as one foot below).

8.350 MANUFACTURED HOMES

All manufactured homes to be placed or substantially improved on sites:

shall be elevated on a permanent foundation such that the finished floor of the manufactured home is elevated to a minimum 18 inches (46 cm)² above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

8.360 RECREATIONAL VEHICLES

Recreational vehicles placed on sites are required to either:

- (i) be on the site for fewer than 180 consecutive days
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (iii) Meet the requirements of 8.350 above and the elevation and anchoring requirements for manufactured homes.

**8.370 BELOW-GRADE CRAWL SPACES –ADMINISTERED BY STATE
BUILDING CODES DEPT.**

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

- (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section B below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- (2) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
- (3) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- (4) Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- (5) The interior grade of a crawlspace below the BFE must not be more than two(2) feet below the lowest adjacent exterior grade.
- (6) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(7) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(8) The velocity of floodwaters at the site should not exceed five (5) feet per second, other foundation types should be used.

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

8.380 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

8.390 FLOODWAYS

Located within areas of special flood hazard established in Section 8.140 are in areas designated as floodways. Since the floodway is an extremely hazardous area due to velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Except as provided in paragraph (3), prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If Section 8.290 is satisfied, all new construction and substantial improvement shall comply with all applicable flood hazard reduction provisions of Section 8.260, PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (3) Projects for stream habitat restoration may be permitted in the floodway provided:
 - (i) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,
 - (ii) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and ,
 - (iii) No structures would be impacted by a potential rise in flood elevation; and,
 - (iv) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
- (4) New installation of manufactured dwellings are prohibited (2002 Oregon

Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:

- (i) If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or
- (ii) A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:

- (1) As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
- (2) The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map.
- (3) The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction.
- (4) The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;
- (5) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and
- (6) Any other requirements deemed necessary by the authority having jurisdiction.

8.400 STANDARDS FOR SHALLOW FLOODING AREAS (AO ZONES)

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

- (1) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the depth number specified on the FIRM (at least two feet if no depth number is specified).

(2) New construction and substantial improvements of nonresidential structures within AO zones shall either:

- (i) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
- (ii) Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in section 8.340(3).

(3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(4) Recreational vehicles placed on sites within AO Zones on the community's FIRM either:

- (i) Be on the site for fewer than 180 consecutive days, and
- (ii) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (iii) Meet the requirements of 8.400 above and the elevation and anchoring requirements for manufactured homes.

8.410 CRITICAL FACILITY

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain).

Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet 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. Flood proofing 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 should be provided to all critical facilities to the extent possible.

HAZARDS OVERLAY ZONE (HZ)

Section 8.420. Purpose and Intent.

The purpose of the Hazard Overlay Zone is to provide protection for both the City of Myrtle Point and its residents through the provision of development standards based on physiographic conditions, including, but not limited to: slope of the land, natural drainage ways, soil characteristics, and lands subject to land movements or erosion.

The provisions of this ordinance seek to address geologic hazards identified on city lands that may be subject to reasonably anticipated or predictable hazard events (i.e., 100 year frequency) while allowing development where the property owner shows through expert evidence and mitigating measures that the proposed development can be made reasonably safe from known hazards. The property owner, including subsequent property owners, take responsibility for the hazard and any potential damage that might result. Issuance of a building permit under this ordinance is not considered an assurance or guarantee that the site will not fail or that damage will not be incurred. [Section 8.200 amended by Ordinance 1193, passed August 4, 1997]

Section 8.430. Administration.

All applications for development shall be reviewed by the City Manager or his/her designate for compliance with the Hazard Overlay Zone. The City Manager may elect to have the Planning Commission complete the review. Those requests which are reviewed by the Planning Commission shall be accompanied by a report from the City Manager concerning compliance with the Hazard Overlay. The City Manager or the Planning Commission may require additional investigation or a revised report from the geologist or engineer to ensure the site adequately addresses the intent of this ordinance. The City Manager or Planning Commission may deny the issuance of a permit if subsequent investigation or reporting does not provide satisfactory evidence that safe development can occur on the site.

All decisions of the City Manager may be appealed to the Planning Commission. Decisions made by the Planning Commission concerning Hazard Overlay compliance shall be appealed in accordance with Section 15 of this code.

If, at the time of application, the applicant can prove through testimony of a registered engineer or engineering geologist that a parcel shown to be on Class B or Class C lands does not have any geologic or soils hazards that will adversely affect development on the parcel in question or on any other parcel, the City Manager or the Planning Commission may waive mitigation requirements. [Amended by Ordinance 1193, passed August 4, 1997]

Section 8.440. Hazard Zone Classifications.

The following factors shall be used to determine the classifications of various hazard overlay zones and their constraints to building and development upon them:

Class A Lands - No Hazard Class A lands are those which have no constraints as defined by this code. Development is limited only by the underlying zone and, if applicable, other overlay zones, in which the parcel is located.

Class B Lands - Steep Slopes Class B lands are those which lie on slopes greater than 15%. Class B lands shall require a site review report as described in Section 8.240.

Class C Lands - Soil Limitations Class C lands are those which have hazardous conditions based on soil characteristics identified in the Resource Conservation Service *Soil Survey of Coos County, Oregon*, but may be on slopes of less than 15%. These soils are listed in the Comprehensive Plan Soil Inventory. Class C hazards may include, but are not limited to, shrink/swell, slope stability failures, or ponding or poor drainage. Class C lands also include any existing unstable land forms such as areas of evident slumps, slides, ground creep, debris flows, seeps and springs, or other groundwater manifestations which would have an impact on soil stability. Class C lands do not include those which are subject to flooding or are found within the floodplain as identified in the Comprehensive Plan. Class C lands shall require a site review report as described in Section 8.240.

The above classifications, are cumulative in their effect and, if a parcel of land falls under two or more classifications it shall be subject to the regulations of each classification. Those restrictions applied shall pertain to the entire parcel on which development occurs.
[Amended by Ordinance 1193, passed August 4, 1997]

Section 8.450. Official Maps.

The City shall adopt official maps denoting the identified areas of natural hazard when adopting this code. The maps are generalized in nature and provide basic reference to soils that may contain hazards. On-site investigation shall be required as per Section 8.240 of this Ordinance to make a final determination of whether hazards exist on lands to be developed. If the City Manager suspects that property not identified on the official maps may be subject to a natural hazard described in Section 8.220, he or she may withhold issuance of the development permit for 30 days to study the facts relating to the land. Compliance shall be required only after a report from an engineer or engineering geologist as applicable to the problem identified, certifies that the land in question complies with the description of a natural hazard in Section 8.220. In this case, the burden of proof is on the City.

Annexation of lands to the City subsequent to the adoption of this overlay requires a determination of existing hazards. Any hazards identified on the land to be annexed shall be amended to the official maps. If the annexation is initiated by the City, the City shall pay the cost of determination of hazards; if annexation is initiated by a property owner, the property owner is responsible for determining the existence of hazards on the property or properties being annexed.

Amendment of these maps shall require review and approval by the City Council. [Amended by Ordinance 1193, passed on August 4, 1997]

Section 8.460. Development Requirements for Class B and Class C lands.

Development or redevelopment on lands identified as Class B or Class C which require the issuance of a structural building permit or entails excavation or fill of greater than 50 cubic yards shall be subject to conditions, restrictions, and recommendations outlined in a site review report to be completed by an engineer or engineering geologist. This report shall include the following:

Client or party that commissioned the report.

Name, signature and registration number of engineer or geologist who completed the investigation on which the report is based, as well as the dates when the work was done.

Written description and map of site in regard to location and general setting, major geographic and geologic features, topography, slope, and existing cut and fill materials.

Project description and preliminary site map including location on the site, drainage, local vegetation, and proposed cut and/or fill.

Discussion of any existing slope stability problems on the parcel under investigation, as well as on surrounding parcels;

Discussion of soil types on the site. The reporting of soil types must be consistent with classifications used by the National Resource Conservation Service *Soils Survey of Coos County, Oregon*.

Specific recommendations for cut slope and fill stability, seepage, erosion, and drainage control or other design criteria to mitigate recognized geologic hazards; and

A statement that the site has been adequately investigated and can be safely developed in keeping with the report recommendations if the recommendations are employed and are reasonably maintained and that anticipated or predictable hazard events will not destroy or seriously damage the structure or require major repair to it.

In addition to any development recommendations in the site review report, the following standards will apply:

- A. Any cuts and/or fills greater than 50 cubic yards in Class B lands must be designed by an engineer to comply with the Uniform Building Code. Such cuts and/or fills shall be designed in such a manner that they will be stable for the use intended.
- B. All development which removes vegetation or disturbs topsoil and which leaves the disturbed soil at a slope of 20% or more shall be replanted in a manner to re-establish vegetation within a one-year period from issuance of a Certificate of Occupancy.
- C. Any development which increases the natural runoff by decreasing the infiltration of the soil shall conform to the following standards:
 - 1) All roof drainage must be collected, controlled and directed either by underground pipe or concrete or asphalt gutter to a City street or storm drain.

- 2) All drainage from driveways, parking areas, and other impervious surfaces must be collected, controlled and directed to a City street or storm drain by underground pipe or concrete or asphalt gutter.
- 3) Other alternate methods of storm water disposal, such as a leachfield, may be approved by the City's Public Works Department.

Once the development is completed, the engineer or geologist who provided the hazards report shall declare to the City that all recommended mitigating measures were followed as stipulated in the site report.

Nothing in this section shall abridge the City's right to inspect work in progress or in its completed state, to make appropriate measurements and tests to determine if the development was made according to plan, and to require alterations prior to final approval of the development. [Amended by Ordinance 1193, passed August 4, 1997]

HISTORIC-CULTURAL OVERLAY ZONE (HC)

Section 8.470. Purpose. The purpose of the Historical Cultural Overlay Zone (HS) is to promote the historic, educational, cultural, economic and general welfare of the public through the preservation, restoration and protection of buildings, structures, appurtenances, sites, places and elements of historic value to the City of Myrtle Point.

Section 8.480. Planning Commission Review of Permit for Alteration or Demolition of Historical Site, Structure or Object. Within the Historic-Cultural Overlay Zone (HC), it shall be the Planning Commission's responsibility to act as an architectural review board. The Planning Commission shall authorize the alteration, moving, renovation, demolition or change of use of any site, structure or object which has been determined by the City Council to have local, regional, statewide or national significance as designated by the Myrtle Point Comprehensive Plan. Application shall be made to the commission by the property owner for the alteration, moving, renovation, demolition or change of use of any historical site, and before any permit can be issued, the following procedures shall be take by the commission.

- (a) The applicant for a permit shall present information concerning the proposed action to the Planning Commission, upon which the commission shall make findings and recommendations, which shall address the following:
 - (1) whether historical significance will be substantially affected by the proposed change,
 - (2) whether financial or other hardship to the owner in preserving the historical significance is outweighed by the public interest in preserving historic values,
 - (3) whether the site, structure or object has maintained the characteristics for historic significance,
 - (4) whether the proposed action or change will have any substantial economic, social, environmental or energy consequences on the public and private interests involved, and
 - (5) whether it has deteriorated or changed so as to become hazardous to public health, safety or welfare.

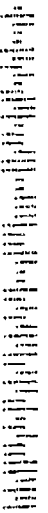
- (b) If, upon due consideration of (1) through (5), the commission recommends preservation of the property, the commission shall determine whether there are alternative ways in which historic values may be preserved. When application is made as specified above, all permit review and approval actions, at the option of the commission, may be tabled for a period of up to 90 days during which time the City will determine through public advertisement (state wide) whether or not public or private interests exist which would negotiate with the current property owner to purchase the historic property with the intent of rehabilitation, maintenance and protection of the property.
- (c) If such interest is found, the commission shall disapprove the application for a permit.
- (d) If negotiations are brought to an end without a change of ownership or no public or private interest is found, a renewed application for a permit shall be considered by the commission without prejudice.

WETLAND PROTECTION OVERLAY ZONE (WP)

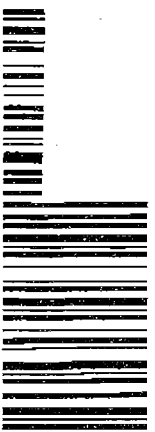
Section 8.490. Purpose. The purpose of the Wetland Protection Overlay Zone (WP) in the City of Myrtle Point is to preserve and protect significant wetland areas. It is the policy of the City of Myrtle Point to protect significant wetland areas within the City limits. Areas affected by this overlay zone are those identified in the Myrtle Point Comprehensive Plan, Goal 5 resource inventory worksheets, and reference in the U.S. Fish and Wildlife Service National Wetland Inventory Map (s) filed with the Coos County Planning Department.

Section 8.500. Limitations on Use. Development in significant wetlands is prohibited consistent with City policy. All development proposals shall require a comprehensive plan amendment, including a Goal 5 Economic, Social, Environmental and Energy assessment, and findings showing that the wetland is not significant and that the conflicting use can be permitted.

CERTIFIED MAIL



CITY OF MYRTLE POINT
424 5th Street
Myrtle Point, OR 97458



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