



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

10/21/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Newport Plan Amendment
DLCD File Number 006-09

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: Wednesday, November 04, 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: Meredith Savage, City of Newport
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist

<paa> YA

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



Jurisdiction: **City of Newport**

Local file number: **1-Z-09**

Date of Adoption: **10/5/09**

Date Mailed: **10/13/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **7/28/09**

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".

Amendments update Section 2-4-6 of the Newport Zoning Ordinance relating to development within the 100 year floodplain to incorporate text changes recommended by FEMA and DLCD and to adopt the new Flood Insurance Study and maps released by FEMA. The ordinance is effective December 18, 2009 which coincides with the date set by FEMA for when the study and maps go into effect.

Does the Adoption differ from proposal? Yes, Please explain below:

The adopted ordinance incorporated additional language from the model ordinance regarding critical facilities and a cross reference to statutes regulating construction of new essential or special occupancy structures within tsunami inundation areas. Minor technical changes were also made, addressing comments received from DLCD staff.

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: **Coast, bay, and tributaries within the City**

Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

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

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

DLCD file No. 006-09 (17727) [15760]

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

FEMA, OR DSL, OR DEQ, Lincoln County Planning and Development

Local Contact: **Derrick I. Tokos, AICP**

Phone: (541) 574-0626 Extension:

Address: **169 SW Coast Highway**

Fax Number: **541-574-0644**

City: **Newport**

Zip: **97365**

E-mail Address: **d.tokos@thecityofnewport.net**

ADOPTION SUBMITTAL REQUIREMENTS

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

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **twenty-one (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

NEWPORT FILE NO. 1-Z-09

CITY OF NEWPORT

ORDINANCE NO. 1987

**AN ORDINANCE AMENDING ORDINANCE NO. 1308 (AS AMENDED) OF
THE CITY OF NEWPORT, OREGON, TO AMEND THE FLOOD HAZARD
AREA SECTION OF THE NEWPORT ZONING ORDINANCE**

Findings:

1. The City of Newport Zoning Ordinance (No. 1308, as amended) contains a section on Flood Hazards that implements the National Flood Insurance Program (NFIP) of the Federal Emergency Management Agency (FEMA). Staff from the Oregon Department of Land Conservation and Development (DLCD) have identified changes in the existing Flood Hazard Area section (2-4-6) of the Newport Zoning Ordinance that need to be made to update the ordinance to be consistent with changes in the NFIP. A draft of proposed changes to the Flood Hazard Area Section was submitted to DLCDC staff for further review and comment. Changes to the proposed ordinance were received on February 20, 2009, and on March 4, 2009, following review by DLCDC staff and FEMA staff.
2. FEMA has developed an updated Flood Insurance Study (FIS) and updated Flood Insurance Rate Maps (FIRM) for use in the management of the floodplain through a map modernization process. The City of Newport was provided a draft copy of the updated maps on February 13, 2009, for review and comment. FEMA and DLCDC hosted an open house meeting on the updated maps for the public at the Lincoln County Courthouse on March 31, 2009. A letter from FEMA dated June 18, 2009, was received by the City of Newport informing the City that the updated FIS and FIRMs will become effective on December 18, 2009. Final drafts of the FIS and FIRM maps were released by FEMA on August 6, 2009.
3. The Newport Planning Commission and Planning Commission Citizens Advisory Committee reviewed proposed changes to the Flood Hazard Area Section and the draft maps in a work session on February 23, 2009. The Planning Commission authorized City staff to initiate the proposed amendments to the Flood Hazard Section.
4. The Newport Planning Commission held a public hearing on September 14, 2009, on the proposed amendments (Newport File No. 1-Z-09) for the purpose of reviewing the changes and providing a recommendation to the City Council. After due deliberation, the Planning Commission recommended that the proposed amendments to the Flood Hazard Area Section be adopted by the City Council of the City of Newport.
5. The City Council of the City of Newport held a public hearing on October 5, 2009, regarding the question of the proposed amendments (Newport File No. 1-Z-09), and voted in favor of adoption of the proposed text amendment after considering the recommendation of the Planning Commission and the evidence and argument in the record.

6. Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings. Advance mail notice of the hearings was sent to persons who own property within the 100 year floodplain along with affected agencies and utilities. Notice of the hearings was also published in the News-Times.

Based on these findings,

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

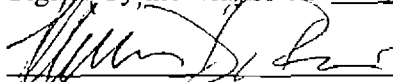
Section 1. Ordinance No. 1308 (as amended) is further amended to revise Section 2-4-6 of the Newport Zoning Ordinance relating to Flood Hazard Areas as reflected in Exhibit "A". The revised Section 2-4-6 incorporates by reference the updated Flood Insurance Study and Flood Insurance Rate Maps applicable to the City of Newport that become effective on December 18, 2009, or on such future date as determined by FEMA.

Section 2. The effective date of this ordinance is December 18, 2009.

Date adopted on initial vote and read by title only: October 5, 2009

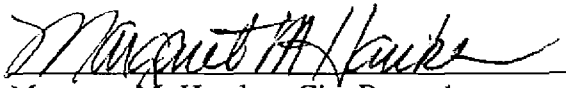
Date adopted on final roll call vote: October 5, 2009

Signed by the Mayor on October 6, 2009.



William D. Bain, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

DRAFT 9-28-09 – Exhibit A to Ordinance No. 1987, Amending the Flood Hazard Area Section of Newport Zoning Ordinance (No. 1308, as amended)

(Language stricken is deleted; double underlined language is new.)

Section 2-4-6. FLOOD HAZARD AREA

2-4-6.0062-6-005. Purpose and Objectives. It is the purpose of this Flood Hazard Area Section to regulate the use of those areas subject to periodic flooding, to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions.

2-4-6.010. Definitions. Words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

A- "Appeal" means a request for a review of the administrator's interpretation of any provision of Section 2-4-6 of this Ordinance or a request for a variance.

B- "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 (1) to three (3) 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.

C- "Area of special flood hazard" means the land in the flood plain subject to a 1% or greater chance of flooding in any given year. Designation on maps always includes the letters "A" or "V".

D- "Base flood" means the flood having a 1% chance of being equaled or exceeded in any given year. This is also referred to as the "100-year flood". Designation on maps always includes the letters "A" or "V".

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

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

E- "Breakaway walls" means a wall that is not 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.

F- "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other

area subject to high velocity wave action from storms or seismic sources, the area subject to high velocity waters, including (but not limited to) storm surge or tsunamis. The area is designed on a FIRM as Zones V1 - V30, 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.

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

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

"Existing Manufacture 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 these floodplain management regulations.

"Expansion of Manufacture 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).

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

- (1) The overflow in inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of run-off of surface waters from any source.

- I- "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.

- J- "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.

- K- "Floodway" means the channel of a river or other water-course and the adjacent areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

- L- "Lowest floor" means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure, usable solely for the 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 found in 2-4-6.025.B.1.(b) of this Ordinance.
- M- "Manufactured home" means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- N- "Manufactured home park" or "manufactured home subdivision" means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets).
- Q- "Mean sea level" (MSL) means the average height of the sea for all stages of the tide.
- P- "New construction" means the structures for which the "start of construction" commenced on or after the effective date of this Zoning Ordinance.

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

"Recreational vehicle" means a vehicle which is:

(1) built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for uses as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

- Q- "Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the

construction of columns, or any work beyond the stage of excavation) or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation (such as clearing, grading, and filling), the installation of streets and/or walkways, excavation (for a basement, footings, piers, or foundation or the erection of temporary forms), or the installation on the property of accessory buildings (such as garages or sheds not occupied as dwelling units or not part of the main structures). For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

R. "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above the 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.

S. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either of the following:

(a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to assure safe living conditions; or

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

"State Building Code" means the combined specialty codes.

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

"Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

2-4-6.015. General Provisions. The basis for establishing the areas of special flood hazard ~~The are the~~ areas of special flood hazard identified by the Federal Insurance Administration ~~through in~~ a scientific and engineering report (~~"The Flood Insurance Study~~

for the City of Newport") entitled "The Flood Insurance Study for Lincoln County, Oregon and Incorporated Areas", dated December 18, 2009, with accompanying Flood Insurance Rate maps, boundary maps, and any revision thereto is hereby adopted by reference and declared to be part of this Ordinance. The Flood Insurance Study (FIS) and accompanying Flood Insurance Rate Maps (FIRMs) are on file at the City of Newport City Hall in the Community Development Department and are hereby adopted by reference and declared to be part of this Ordinance.

2-4-6.020. Administration.

- A. Establishment of Building/Development Permit. A Building/Development Permit shall be required in conformance with the provisions of this Section. 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 ~~as (also set forth in the definitions).~~
- B. Application for Permit. Application shall be made on forms provided by the Community Development Department for this purpose 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:
- (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 floodproofing in any structure;
 - (3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in 2-4-6.025.B(2); and
 - (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.
- B.C. Duties and Responsibilities. The duties of the Building Official shall include—, but not be limited to—, permit review as follows:
- (1) Review all development permits to require that the permit requirements and conditions of this Ordinance have been satisfied.
 - (2) Review all development permits to require that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
 - (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Subsection .025.C.1. are met.

~~C.D.~~ Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with this Section, the Building Official 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 2-4-6.025.B (Specific Standards) and 2-4-6.020.C(1) (Floodways).~~1. ("Specific Standards/Residential Construction"), 2-4-6.025.B.2. ("Specific Standards/ Nonresidential Construction"), and 2-4-6.025.C.1. ("Floodways").~~

~~D.E.~~ Information to be obtained and maintained by the Building Official:

- (1) Where the base flood elevation ~~data~~ data is provided through the Flood Insurance Study or required as in Subsection .020.CD., the actual elevation, in relation to mean sea level, of the lowest floor (including the basement and below-grade crawlspaces) of all new or substantially improved structures in a flood hazard overlay zone shall be obtained and recorded.
- (2) For all new or substantially improved flood-proofed structures in a flood hazard overlay zone:
 - (a) Verify and record the actual elevation (in relation to mean sea level);
 - (b) Maintain the flood-proofing certifications required in Subsection ~~.020A~~ .020.B(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this Ordinance.

~~E.F.~~ Alteration of Watercourses. The Building Official shall:

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

~~F.G.~~ Interpretation of FIRM Boundaries. The Building Official shall make interpretations where needed as to the 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). Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 2-4-6.030, Appeals and Variance Procedures.

~~G.~~ Appeals and Variance Procedures.

- (1) ~~The Planning Commission shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision, or determination in the enforcement or administration of this Ordinance. Such appeals shall be granted only if consistent with the standards of Section 1910.6 of the rules and regulations of the National Flood Insurance Program (24 CFR 1900 Et. Seq.).~~
- (2) ~~Variances shall be issued or denied in accordance with Section 2-5-2 of this Ordinance.~~

2-4-6.025. Provisions for Flood Hazard Reduction.

A. **General Standards.** In areas of special flood hazard as adopted by this ordinance (which may be illustrated on a zoning map as a the Flood Hazard Overlay Zone (FH Zone), the following provisions are required:

- (1) Anchoring.
 - (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - (b) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - 1.) Over-the-top ties be provided at each end of the manufactured home, with two (2) additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one (1) additional tie per side.
 - 2.) Frame ties are to be provided at each corner of the home with five (5) additional ties per side at intermediate points, and manufactured homes less than 50 feet long will require four (4) additional ties per side;
 - 3.) All components of the anchoring system are to be capable of carrying a force of 4,800 pounds; and
 - 4.) Additions to the manufactured home are to be similarly anchored.
 - (c) An alternative method of anchoring may involve a system designed to withstand the wind force of 90 miles an hour or greater.

Certification must be provided by a registered structural engineer to the Building Official that this standard has been met.

- (d) All modular homes shall comply with the requirements of the Uniform Building Code applicable building code.

(2) Construction Materials and Methods.

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (c) 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.

(3) Utilities.

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (b) 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 the flood waters; and
- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with Department of Environmental Quality regulations.

(4) Subdivision Proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments that contain at least 50 lots or five (5) acres (whichever is less).

(5) Critical Facilities.

- (a) New critical facilities shall be located outside the limits of the Flood Hazard Overlay Zone, unless no feasible alternative site is available.

(b) New critical facilities constructed within the Flood Hazard Overlay Zone shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher.

(c) Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.

(d) Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(56) Review of Building Permit Applications by Building Official. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source (Subsection .020.GD.), applications for building permits shall be reviewed to see that proposed construction will be reasonably safe from flooding. A determination of reasonable safety is a judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available for the area. Failure to elevate the lowest floor at least two (2) feet above grade in these zones may result in higher insurance rates.

B. Specific Standards. In all areas of special flood hazards (which may be illustrated on a zoning map as a FH Zone) adopted by this ordinance where base flood elevation data has been provided as set forth in this Section, the following provisions are required:

(1) Residential Construction.

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

(b) 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:

1.) A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.

2.) The bottom of all openings shall be no higher than one (1) foot above grade.

3.) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(2) Nonresidential Construction. New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including the basement) elevated to one (1) foot above the base floor elevation or, together with attendant utility and sanitary facilities, shall:

- (a) Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (c) 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 Subsection .020.D. below;~~
- (d) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Subsection .025.B.1.(b).; and
- (e) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g., a building constructed to the base flood level will be rated as one (1) foot below that level).

(3) ~~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 one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Subsection .025.A.1. of this Section.~~

(a) All manufactured homes to be placed or substantially improved on sites;

- 1.) Outside of a manufactured home park or subdivision.
- 2.) In a new manufactured home park or subdivision.
- 3.) In an expansion to an existing manufactured home park or subdivision, or
- 4.) In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as

the result of a flood:

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) above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(b) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:

1.) The finished floor of the manufactured home is elevated to a minimum of 18 inches (46 cm) above the base flood elevation, or

2.) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

(4) Crawlspace construction. Below grade crawlspace construction is permitted within the floodplain provided that applicable National Flood Insurance Program (NFIP) specifications, as found in FEMA Technical Bulletin 11-01, are met. More detail is provided by FEMA Technical Bulletin 11-01 including these specifications:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Subsection (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.

(b) 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.

(c) 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.

- (d) 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.
- (e) The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.
- (f) 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.
- (g) 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.
- (h) The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

C. Floodways.

- (1) Located within areas of special flood hazards established in this Section 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 that occurrence of the base flood discharge.
 - (b) If Subsection 2-4-6.025.C.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood

hazard reduction provisions of this Subsection (2-4-6.025, "Provisions For Flood Hazard Reduction").

(c) Projects for stream habitat restoration may be permitted in the floodway provided:

- 1.) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,
- 2.) 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,
- 3.) No structures would be impacted by a potential rise in flood elevation; and,
- 4.) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

(d) New installation of manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:

- 1.) 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
- 2.) 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:
 - a.) 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;

- b.) 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;
- c.) 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;
- d.) 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;
- e.) The location of a replacement manufactured dwelling is allowed by the local planning department's ordinance; and
- f.) Any other requirements deemed necessary by the authority having jurisdiction.

(2) In areas where a regulatory floodway has not been designated in a non-tidally influenced area, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-A30 or AE on the community FIRMs, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

D. Coastal High Hazard Area. Located within areas of special flood hazards established in Subsection 2-4-6.015 above 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 Ordinance and the State Building Code, the following provisions shall apply:

- (1) 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:
 - (a) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to ~~or~~ at least one foot above the base flood level elevation; and
 - (b) 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 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

- ~~(2)~~ (2) 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 A-(a) and B-(b) above.
- ~~(2)(3)~~ (2)(3) 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 - V30 and VE, whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.
- ~~(3)(4)~~ (3)(4) All new construction shall be located landward of the reach of mean high tide.
- ~~(4)(5)~~ (4)(5) 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 lattice-work, 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 purposes of this Section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls that exceed a design safe loading resistance of 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:

 - (a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - (b) 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 non-structural). Maximum wind and water loading values to be used in this determination shall each have a 1% chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
- ~~(5)(6)~~ (5)(6) If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.
- ~~(6)(7)~~ (6)(7) Prohibit the use of fill for structural support of buildings.

~~(7)~~(8) Prohibit man-made alteration of sand dunes which would increase potential flood damage.

~~(8)~~(9) Recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM shall either:

- (a) Be on the site for fewer than 180 consecutive days,
- (b) Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (c) Meet the requirements of Section 2-4-6.020 (Administration) and (1) through (8) of this Subsection,

(10) For construction of new essential and new special occupancy structures as defined in ORS 455.446 and 447, refer to the statutes which state that such structures may not be constructed in the Tsunami Inundation Zone. The Tsunami Inundation Zone includes V, A, and potentially other flood zones. If an exception is granted pursuant to the statutes then the Coastal High Hazard Area construction standards outlined in this subsection shall apply.

E. Areas of Shallow Flooding (AO Zone). In all areas of special flood hazards designated as areas of shallow flooding, the following provisions shall apply:

(1) All new construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated one (1) feet above the highest adjacent grade of to the building site to or by one foot or more above the depth number specified on the FIRM and or by at least two (2) feet if no depth number is specified on the FIRM.

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

(a) Have the lowest floor (including the basement) elevated one (1) feet above the highest adjacent grade of to the building site to or by one foot or more above the depth number specified on the FIRM and or by at least two (2) feet if no depth number is specified on the FIRM; or

(b) Together with attendant utility and sanitary facilities, be completely flood-proofed to or above the level designated in Subsection 2-4-6.025(B)(2) 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. A registered professional engineer or architect shall certify that the standards of this Subsection are satisfied.

(3) Adequate drainage paths around structures on slopes shall be required to

guide floodwaters around and away from proposed structures.

- (4) Crawlspace construction. Below grade crawlspace construction is permitted within the floodplain provided that applicable National Flood Insurance Program (NFIP) specifications found in FEMA Bulletin TD-1101 are met.

2-4-6.030 Appeals and Variance Procedures.

A. The Planning Commission shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision, or determination in the enforcement or administration of this Ordinance. Such appeals shall be granted only if consistent with the standards of 44 CFR Chapter 60.6 of the rules and regulations of the National Flood Insurance Program (44 CFR Chapter 1, Subchapter B) as adopted through January 1, 2009.

B. Variances.

(1) Variances shall be issued or denied in accordance with the procedures for a Planning Commission level variance and subject to the following criteria:

(a.) There is a good and sufficient cause for the variance. Examples of good and sufficient cause include the reconstruction, rehabilitation or restoration of historic structures (that are listed in the National Register of Historic Places, state inventory of Historic Places, or that contribute to a historic district) or a functionally-dependent use (a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water). In considering this criterion, the Planning Commission shall consider:

- 1.) The importance of the services provided by the facility to the community.
- 2.) The necessity to the facility of a water-front location, where applicable.
- 3.) The availability of alternative locations for the use which are not subject to flooding.
- 4.) The compatibility of the use with existing and anticipated development.

(b.) Failure to grant the variance would result in an exceptional hardship to the applicant based on exceptional, unusual, and/or peculiar circumstances of the property. For the reconstruction, rehabilitation or restoration of historic structures (that are listed in the National Register of Historic Places, state inventory of Historic Places, or that contribute to a historic district) or for functionally-dependent uses (a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water) only practical difficulties resulting from the

failure to grant the variance rather than exceptional hardship are required.

(c.) The granting of the 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, or conflict with existing local laws or ordinances.

(d.) The variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) The applicant for an approved variance shall be notified in writing that approval of the variance will result in increased flood insurance purchase premium rates, up to \$25 per \$100 coverage.



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City of Newport
169 SW Coast Hwy
Newport, OR 97365

TO

ATTN: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL ST NE STE 150
SALEM OR 97301-2540