



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

9/15/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Port Orford 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: Friday, September 25, 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: Patty Clark, City of Port Orford
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Chris Shirley, FEMA Specialist

<paa> YA

Notice of Adoption

In person electronic mailed

DEPT OF

SEP 08 2009

LAND CONSERVATION
AND DEVELOPMENT
DLCD Use Only

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

Jurisdiction: City of **Port Orford**

Local file number: 2009-04

Date of Adoption: **9-3-2009**

Date Mailed: **9-4-2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 4-22-2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
"Updated the City's Flood Damage Prevention Ordinance in accordance with the FEMA recommendations in order that citizens may be eligible for national flood insurance. Incorporated the new FIRM digitized flood maps of the City of Port Orford into the City's Comprehensive Plan."

Does the Adoption differ from proposal? Yes, please explain

"A few wording changes to assist in implementation . No change of required content. "

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

to: **City Flood Maps**

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

to:

Location: Port Orford

Acres Involved: **N/A**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment.

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

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

Local Contact: **Bev Manes**

Phone: (541) 332-3681 Extension:

Address: **PO Box 310**

Fax Number: **541-332-3830**

City: **Port Orford, OR**

Zip: **97465**

E-mail Address: **bev@portorford.org**

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.**

Updated March 17, 2009

ORDINANCE 2009-04

AN ORDINANCE OF THE CITY OF PORT ORFORD HEREBY REPLACING ORDINANCE 324-87, FLOOD DAMAGE PREVENTION, TO COMPLY WITH CURRENT STATE STANDARDS AND AMENDING ORDINANCE 278, ZONING

An ordinance replacing Ordinance 324-87, Flood Damage Prevention of the City of Port Orford in its entirety, and amending Ordinance 278 Zoning.

BE IT HEREBY ORDAINED by the Common Council of the City of Port Orford that Ordinance 278 shall be amended in the manner set forth in Attachment A to this ordinance.

In all other respects, Ordinance 278 shall remain the same and in full force and effect.

ADOPTED by the Common Council of the City of Port Orford this 3rd day of Sept 2009.

The foregoing ordinance was enacted by the Common Council of the City of Port Orford this 3rd day of September, 2009, by the following vote:


Yes: S. Lubin, C. Clancy, B. McArdle, T. Proctor, J. Hawitt, D. Smith

No: 0

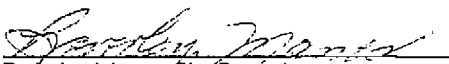
Abstain: 0

Passed: 6 to 0 Failed: _____

Signed this 3rd day of September, 2009 and effective 30 days from the enactment date.


Jim Albhorn, Mayor
City of Port Orford, Curry County, Oregon

ATTEST:


Beverley Manes, City Recorder
City of Port Orford, Curry County, Oregon

Chapter 17.19

FLOOD DAMAGE PREVENTION SECTION

SECTION 1.0

AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

1.1 AUTHORIZATION

The State of Oregon has in ORS 203.035 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Port Orford, Curry County, does ordain as follows:

1.2 FINDINGS OF FACT

- (1) The flood hazard areas of the City of Port Orford, Curry County are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this section 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.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this section includes 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 increases 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 sections.

SECTION 2.0 DEFINITIONS

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

Where there is no definition in Chapter 17.04, the definitions in this section apply to Chapter 17.19. Where definitions in this section differ from those in Section 17.04.030, the definitions in this section apply within the context of applying Flood Provisions. However, where this section and another city section or another section of this section conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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

"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 subgrade (below ground level) on all sides.

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

"BREAKAWAY WALL" 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.

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

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

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

"EXISTING MANUFACTURED 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 land areas from:

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

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

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

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

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this section found at Section 5.2-1(2).

"MANUFACTURED HOME" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

"MANUFACTURED HOME PARK OR SUBDIVISION" means any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, parcel or unit of land under the same provided that each manufactured dwelling is not located on a single platted lot located within a subdivision, as defined in ORS Chapter 446.

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

"RECREATIONAL VEHICLE" means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;

- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

"STATE BUILDING CODE" means the combined specialty codes.

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

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

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

- (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:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been

- identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

“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.

SECTION 3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS SECTION APPLIES

This section shall apply to all areas of special flood hazards within the jurisdiction of the City of Port Orford, Curry County.

3.2 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 *Curry 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 section. The Flood Insurance Study is on file at City Hall, 555 W. 20th Street, Port Orford, Oregon. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued which incorporates the data utilized under section 4.3-2.

3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations. Violations of the provisions of this section by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$750.00 or imprisoned for not more than 5 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Port Orford, Curry County from taking such other lawful action as is necessary to prevent or remedy any violation.

3.4 ABROGATION AND GREATER RESTRICTIONS

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

3.5 INTERPRETATION

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes and rules including the state building code.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this section 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 section 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 section shall not create liability on the part of the City of Port Orford, Curry County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this section or any administrative decision lawfully made here-under.

3.7 SEVERABILITY

If any section clause, sentence, or phrase of the section is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Section.

SECTION 4.0 ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.1-1 Development Permit Required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The

permit shall be for all structures including manufactured homes, as set forth in the "DEFINITIONS," and for all development including fill and other activities, also as set forth in the "DEFINITIONS."

4.1-2 Application for Development Permit

Application for a development permit shall be made on forms furnished by the City of Port Orford 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, 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 flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 5.2-2; and
- (4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Port Orford Planning department is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of this shall include, but not be limited to:

4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements and conditions of this section have been satisfied.
- (2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.3(1) are met.

4.3-2 Use of Other Base Flood Data (In A Zones)

When base flood elevation data has not been provided (A Zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, ~~the local administrator shall obtain, review, and reasonably utilize the applicant shall provide a certification of base flood elevation from an Oregon Registered Engineer to the City, utilizing~~ any base flood elevation and floodway data available from a Federal, State or other source. ~~It shall be provided to the Local Administrator~~ in order to administer Sections 5.2, SPECIFIC STANDARDS.

4.3-3 Information to be Obtained and Maintained

- (1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basements and below-grade crawl-spaces) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved flood proofed structures where base flood elevation data is provided through the Flood Insurance Study, FIRM, or as required in Section 4.3-2:
 - (i) Verify and record the actual elevation (in relation to mean sea level), and
 - (ii) Maintain the floodproofing certifications required in Section 4.1-2(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this section.

4.3-4 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.

4.3-5 Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of the Code of Federal regulations, Section 60.6 (variances and exceptions).

4.4-1 Appeal Board for floodway ordinance only

- (1) The Port Orford Planning Commission as established by Chapter 280 shall hear and decide appeals and requests for variances from the requirements of this section based upon information provided by a licensed Oregon Engineer, Geologist or Surveyor.
- (2) The Port Orford Planning Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City of Port Orford, Curry County in the enforcement or administration of this section.
- (3) Those aggrieved by the decision of the Port Orford Planning Commission, or any taxpayer, may appeal such decision to the City of Port Orford Common Council, as provided in Section ~~16.04.60~~ 17.04.200.
- (4) In passing upon such applications and appeals, the City of Port Orford Planning Commission and ~~Common~~ Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this section, and a report by the applicant's engineer addressing the following:
 - (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 re-pair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Upon consideration of the factors of Section 4.4-1(4) and the purposes of this section, the City of Port Orford ~~Common Council~~ Planning Commission may

attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

- (6) The planning department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

4.4-2 Conditions for Variances

- (1) Generally, the only condition under which a 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 4.4-1(4) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.
- (2) 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) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.
- (6) 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, variances from the flood elevations should be quite rare.
- (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.4-2(1), and otherwise complies with Sections 5.1-1 of the GENERAL STANDARDS.
- (8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below

the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(9) Applications for Variances shall include a report from an Oregon Registered Engineer that addresses the technical considerations of flood levels so that all the conditions for granting a variance can be evaluated by the Planning Commission.

SECTION 5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

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

5.1-1 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)

5.1-2 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.

5.1-3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

5.1-4 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).

5.1-5 Review of Building Permits

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above grade in these zones may result in higher insurance rates.

5.2 SPECIFIC STANDARDS

In Section 4.3-2, Use of Other Base Flood Data (In A Zones), the following provisions are required:

The following sections will be determined by the Building Codes.

5.2-1 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 be either 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.

5.2-2 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 floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydro-static 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 4.3-3(2);
- (4) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2);
- (5) Applicants flood proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one foot below.

5.2-3 Manufactured Homes

- (1) 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 of 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.

5.2-4 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 5.2-3 above and the elevation and anchoring requirements for manufactured homes.

5.2-5 Below-grade crawl spaces

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

- i. 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, crawl-space 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.
- ii. 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.
- iii. 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.
- iv. 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.

v. The interior grade of a crawlspace below the BFE must not be more than two (2) feet below the lowest adjacent exterior grade.

vi. 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.

vii. 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.

viii. The velocity of flood-waters at the site should not exceed five (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

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

ADDITIONAL OPTIONS

Include the diagrams from the Technical Bulletin in the section to illustrate the 2 ft. /4 ft. rules but revise to correctly reference the state building code requirements to elevate 1 ft. above BFE for residential structures.

5.3 FLOODWAYS

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the flood-way is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) 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 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.
- (3) 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:
 - (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**

(Code of Federal Regulations) **Section 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 sections; and

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

5.4 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 shall be provided to all critical facilities to the extent possible.

ORDINANCE 2009-06

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF PORT ORFORD ADOPTING THE FLOOD INSURANCE RATE MAPS (FIRMS) DIGITIZED FLOOD MAPS OF PORT ORFORD AS AN ELEMENT OF PORT ORFORD'S COMPREHENSIVE PLAN

FEMA requires that cities keep current with flood prevention regulations so that citizens can be eligible for national flood insurance. At this time, FEMA and the Oregon Department of Land Conservation and Development have provided maps of the City of Port Orford as listed below:

Map Index:

Map Number 41015CINDOA

Map Number 41015C0170E; Panel 170; Suffix E

Map Number 41015C0190E; Panel 190; Suffix E

Map Number 41015C0357E; Panel 357; Suffix E

Map Number 41015C0380E; Panel 380; Suffix E

Community

Curry County No. 410052

Port Orford, the City of No. 410272

BE IT HEREBY ORDAINED by the Common Council of the City of Port Orford that the FIRMS be incorporated into the Port Orford Comprehensive Plan.

ADOPTED by the Common Council of the City of Port Orford this 3rd day of September 2009.

The foregoing ordinance was enacted by the Common Council of the City of Port Orford this 3rd day of September, 2009, by the following vote:

Yes: S. Lühr, C. Clancy, B. McArdle

No: [Signature]

Abstain: [Signature]

Passed: 3-0 Failed: [Blank]

Signed this 3rd day of September, 2009, and effective 30 days from the enactment date.

[Signature] Jim Auburn, Mayor

ATTEST:

[Signature] Beverley Mañes, City Recorder

MEMO

TO: Mike Murphy, City Administrator
Mayor Jim Auburn and the Port Orford City Council

FROM: Crystal Shoji, AICP
Planning Director

DATE: July 24, 2009 (for City Council Public Hearing on August 6, 2009)

SUBJECT: Proposed Floodplain Ordinance, Chapter 17.19

Patty Clark has been the lead staff in organizing the Proposed Floodplain Ordinance. The Planning Commission held their final Public Hearing July 14, 2009, but Patty was unable to attend the Hearing because she was at a state workshop addressing floodplain administration for small cities. At that time, I presented some concerns about the way that the ordinance was written (wording taken from the FEMA / DLCDC Model Ordinance), but it was our understanding that FEMA and DLCDC were asking us not to change any more of the wording. I suggested some simple wording changes that would improve mutual understanding for Port Orford City Staff and members of the public during implementation, without affecting FEMA / DLCDC expectations expressed in the model code. The Planning Commission appeared to agree with the changes that I proposed, but I was reluctant to encourage them to make the changes without Patty's input in that she was participating in a workshop concerning the topic at the time of the Planning Commission Hearing. As a result, the Planning Commission (reluctantly, I think) recommended adoption of the ordinance as it was presented at the Public Hearing, without including the changes in wording that we discussed. As you are aware, the City has been provided a strict timeline for adopting this Floodplain Ordinance.

When Patty returned from the FEMA / DLCDC workshop, we received clarification that FEMA / DLCDC were not likely to be concerned about the minor changes to the wording that we discussed. At this time, it is my recommendation that the City Council adopt the Proposed Floodplain Ordinance with the wording changes that were discussed by the Planning Commission at their Public Hearing on July 14. The Proposed Floodplain Ordinance that was formally recommended by the Planning Commission is presented herein, along with the highlighted modifications that were discussed by the Planning Commission. It is my recommendation that the Proposed Floodplain Ordinance be adopted to include the highlighted text at this time.

Patty Clark has done an excellent job of pulling this Proposed Floodplain Ordinance together and providing information to the Planning Commission over the past months. While model ordinances were provided, adapting model codes to address specific community needs is a comprehensive task with a number of considerations. It is our intent to adhere closely to federal and state expectations so that there will be no federal or state conflicts with the City resulting from wording in our Floodplain Ordinance in the future. Patty's work with the Planning Commission and DLCDC representatives, and me has been of benefit to the City. As always, adoption of an ordinance is a team effort involving the efforts of various members of the staff.

Staff Report

TO: Dave Holman, Planning Commission Chair
Port Orford Planning Commission

FROM: Patty Clark
Planning Assistant

DATE: July 8, 2009

SUBJECT: Floodplain: Proposed Ordinance, Chapter 17.19

PUBLIC HEARING:
July 14, 2009

Background

In October, 2008, the final Consultation Coordination Officer (CCO) meeting for the Curry County, Oregon and Incorporated Areas was held in Gold Beach, Oregon. The topic of the meeting was the results of the new Flood Insurance Study (FIS) and associated preliminary Flood Insurance Rate Maps (FIRMS) dated September 29, 2008. Representatives from Oregon Department of Land Conservation and Development and the Department of Homeland Security's Federal Emergency Management Agency (FEMA) were in attendance.

The purpose of the meeting was to provide an opportunity for officials and citizens of Curry County and cities to become familiar with the results of the flood study and its role as the primary regulatory tool used under the National Flood Insurance Program (NFIP) and insurance industry to regulate floodplain development and rate flood insurance policies.

At this meeting we were given a brief background of the NFIP and had a discussion on the significance of the study in terms of flood insurance and floodplain development.

Copies of the preliminary FIS and preliminary FIRMs were sent to us. We reviewed the report and maps and discussed any problems and conflicts at the December, 2008 planning commission meeting. The Planning Commission checked the maps and made corrections and sent information back to FEMA to update the maps.

City of Port Orford staff and Planning Commission Chair Holman met with Christine Shirley, NFIP Coordinator, on May 12th, 2009 and went over the ordinance and made changes to the draft ordinance to meet Port Orford's needs. Christine Shirley has been working closely with Patty Clark, Planning Assistant, to get this ordinance in working order for Port Orford.

Patty is attending the Floodplain Management Course in Albany on the 14th. Hopefully this will point us in the correct direction on how to implement this ordinance.

Our deadline to have this ordinance adopted is September 28, 2009.

Recommendation: Staff recommends that we leave the ordinance the way it is written per FEMA's suggestion and we use the guideline and training to implement the ordinance. Staff recommends we send this ordinance to the City Council for adoption.

Public Outreach

1. Notice of Planning commission Public Hearing of June 9, 2009 was provided by the City of Port Orford as follows:
 - Public Hearing notice was posted at the City Hall and Post Office.
 - Measure 56 notice was sent to all City residents was sent on May 14, 2009.
 - Newspaper notice of June 9, 2009 Planning Commission public hearings were published May 20 and 27, 2009 in the Port Orford New.
 - DLCD 45-day notice was mailed April 22, 2009.

2. Public Hearings are scheduled as follows:
 - Planning Commission: June 9, 6:00 p.m. at the Council Chambers, Port Orford City Hall
 - City Council: July 2, 3:30 p.m. at the Council Chambers, Port Orford City Hall (Hearing opened on July 2nd {as Noticed} and was carried over to July 15th, and will reconvene on August 6th).

**City of Port Orford
P.O. Box 310
Port Orford, OR 97465**

This Public Notice is provided to inform you about the upcoming public hearings, and to comply with ORS 227.186 which requires the City to print the following language:

THIS IS TO NOTIFY YOU THAT THE CITY OF PORT ORFORD HAS PROPOSED LAND USE REGULATIONS IN ORDINANCE #'s 2009-04, -05, -06 THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR PROPERTY AND OTHER PROPERTIES.

The City of Port Orford has scheduled public hearings in the City Council Chambers on the dates specified in this notice regarding the adoption of the following proposed amendments to the City's Zoning Ordinance, Title 17 and the Port Orford Comprehensive Plan Map, as follows:

- 1) Adopt (Ord. 2009-04) Chapter 17.19 Flood Damage Prevention to incorporation prevention measures, and replace Chapter 15.20
- 2) Adopt (Ord. 2009-05) Chapter 17.18 Storm and Surface Water Management Standards, to amend stormwater management requirements, and replace Chapter 17.18
- 3) Adopt (Ord. 2009-06) to adopt the FIRMS Digitized Flood Map of Port Orford as an Element of Port Orford's Comprehensive Plan

The City of Port Orford has determined that adoption of the amendments, which will be by ordinance, may affect the permissible uses of your property and other properties in the city, and may change the value of your property. The proposed amendments are available for inspection at the Port Orford City Hall located at 555 W. 20th Street, Port Orford, Oregon. Copies of the proposed amendments are also available for purchase at the cost of 25 cents per page. For additional information concerning the amendments, you may contact the City of Port Orford. Phone 541-332-3681.

Flood Damage Prevention Ordinance Hearings:

- 1) Planning Commission: Tuesday, June 9, 2009 at 6:00 p.m., Council Chambers
- 2) City Council: Thursday, July 2, 2009 at 3:30 p.m., Council Chambers

Storm and Surface Water Management Standards Ordinance Hearings:

- 1) Planning Commission: Tuesday, June 9, 2009 at 6:00 p.m., Council Chambers
- 2) City Council: Thursday, August 6, 2009 at 3:30 p.m., Council Chambers

The City of Port Orford initially adopted the current land use regulations in 1987. Since that time, some of the language has been amended to comply with the requirements of state statutes and or to meet the needs and wants of the citizens of Port Orford.

You are invited to participate in any or all of the hearings, and in any workshops or continuation of the hearings that may be scheduled and announced at hearings. Written comments addressing the findings necessary for a decision may be submitted prior to public hearings. Failure to raise an issue during a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an opportunity to respond to the issue precludes appeal on that issue. Please contact the City of Port Orford if you have questions or concerns - Phone: 541-332-368


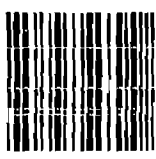
Further information about the proposed ordinances is provided on the back of this notice.

ATTN: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND
CONSERVATION & DEVELOPMENT
635 CAPITAL STREET NE, SUITE 150
SALEM, OREGON 97301-2540



U.S. POSTAGE
PAID
PORT ORLAND, OR
97465
SEP 04, 09
AMOUNT
\$7.68
00090043-03

0000
97301



7008 330 0001 3750 112

