



Oregon
Theodore R. Kubongoski, 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

9/23/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Athena Plan Amendment
DLCD File Number 001-10

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. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, October 05, 2010

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Dyann Swanson, City of Athena
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Grant Young, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

SEP 16 2010

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: City of Athena

Local file number: 950 Revised

Date of Adoption: 07/08/2010

Date Mailed: 08/26/10

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 07/23/10

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".

Adoption of a new floodplain ordinance, floodplain study, and floodplain maps in order to comply with FEMA requirements. The proposed ordinance is attached and the floodplain maps are incorporated by reference as "The Flood Insurance Study for Umatilla County, Oregon and Incorporated Areas, dated September 3, 2010. The floodplain study and new floodplain maps for the city of Athena are available at DLCD through the Natural Hazard Coordinator.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

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:

None affected. besides FEMA, DLCD, Umatilla CT, etc.

Local Contact: **Dyann Jo Swanson**

Phone: (541) 566-3862 Extension:

Address: PO Box 686

Fax Number: **541-566-2781**

City: **Athena**

Zip: 97813

E-mail Address: **dyann@cityofathena.com**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Flood Damage Prevention Ordinance

NOTE: (This entire document replaces #2.70 thru 2.85 of Article 2 in Ordinance 950.)

This ordinance was developed by the State of Oregon in cooperation with FEMA. This Ordinance incorporates by reference the Oregon Specialty Codes as adopted and administered by the Building Code Division as statewide building codes. Oregon Specialty Codes are based upon International Building Codes (I-Codes). Oregon building codes, and the I-Codes, apply only to buildings over 200 square feet.

This flood damage prevention ordinance applies only to non-coastal flood hazards.

Notes

Base Flood Elevation = Design Flood Elevation: The NFIP uses the term Base Flood Elevation for the elevation of the 1% annual flood. Oregon building codes use the term Design Flood Elevation. The terms are equivalent. The building-code-required one foot of freeboard is added to Design Flood Elevation to establish the required elevation of the lowest floor.

Manufactured Dwellings: NFIP regulations exempt “infill” manufactured dwellings in existing manufactured dwelling parks from the requirement to elevate above base flood elevation. Oregon building codes make no distinction between new, existing, or pre-FIRM manufactured dwelling parks. Because the more restrictive building code takes precedence, all new or substantially damaged/improved manufactured dwellings must comply with building code requirements to elevate.

A new Oregon Manufactured Dwelling Specialty Code became effective April 1, 2010. The new code eliminates the requirement that manufactured dwellings be elevated a minimum of 18 inches above BASE FLOOD ELEVATION and points to the Oregon Residential Specialty Code for elevation requirements. While the Oregon Residential Specialty Code requires that the lowest floor be elevated at least 12 inches above base flood elevation, the Oregon Manufactured Dwelling Specialty Code requires that all electrical crossover connections shall be a minimum of 12 inches above the base flood level. The electrical cross connection requirement may be the more restrictive of the two requirements and takes precedence.

I. DEFINITIONS

Unless specifically defined in Chapter I, words or phrases used in this ordinance shall be interpreted according to the meaning they have in common usage.

“Base Flood” means the flood having a one percent chance of being equaled or exceeded in any given year. [59.2]

“Base Flood Elevation (BFE)” means the water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

“Basement” means the portion of a structure with its floor sub grade (below ground level) on all sides. [59.2]

“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.

“Building Codes” means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

“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. [59.2]

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

- (a) the overflow of inland or tidal waters; or
- (b) the unusual and rapid accumulation or runoff of surface waters from any source. [59.2]

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Insurance Administration, delineating the Areas of Special Flood Hazard and/or risk premium zones applicable to the community. [59.2]

“Flood Insurance Study (FIS)” means the official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood. [59.2, modified]

“Floodway” means the channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood. [59.2]

“Historic Structure” means a structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior, or ;

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

i. By an approved state program as determined by the Secretary of the Interior, or;

ii. Directly by the Secretary of the Interior in states without approved programs.

[59.2]

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the Building Code. [59.2, modified for clarity]

“Manufactured Dwelling” means a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Dwelling” does not include a “Recreational Vehicle.” [59.2, modified to replace “home” with “dwelling” to match building code]

“Recreational Vehicle” means a vehicle that 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 towed 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. [59.2]

“Start of construction” includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or 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 the alteration affects the external dimensions of a building. [59.2]

“Structure” means a walled and roofed building, a manufactured dwelling, or a gas or liquid storage tank that is principally above ground. [59.2, modified for clarity]

“**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 its market value before the damage occurred. [59.2]

“**Substantial Improvement**” means reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The market value of the structure should be:

- (1) The appraised real market value of the structure prior to the start of the initial repair or improvement, or
- (2) In the case of damage, the appraised real market value of the structure prior to the damage occurring. The term does not include either:
 - (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (b) Alteration of an Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure. [59.2]

II. GENERAL PROVISIONS

A. Basis for Area of Special Flood Hazard

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for the Umatilla County, Oregon and Incorporated Areas , Volumes 1 and 2, dated, September 3, 2010 with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the office of the City of Athena clerk 215 South Third

B. Coordination with Building Codes.

Pursuant to the requirement established in ORS 455 that the Athena Planning Commission administers and enforces the Building Codes, the Athena Planning Commission of Athena, Oregon does hereby acknowledge that the Building Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Building Codes.

C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required prior to initiating development activities in any Areas of Special Flood Hazard established in Chapter II, Section A. [44 CFR Part 60.3(a)]

Any Floodplain Development Permit that requires an engineering certification or engineering analysis, calculations or modeling to process shall be considered a land use action requiring the opportunity for a quasi-judicial land use hearing. [LUBA No. 2009-007 and ORS 197.763]

III. ADMINISTRATION

A. Designation of Floodplain Ordinance Administrator

Members of the Athena Planning Commission are hereby appointed as the Floodplain Administration who is responsible for administering and implementing the provisions of this ordinance. [59.22(b)]

B. Duties and Responsibilities of the Administration

Duties of the Floodplain Administration shall include, but shall not be limited to:

(1) Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard; [44 CFR 60.3(a)(1)]

(2) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this ordinance; [44 CFR 60.3(a)(1)]

(3) Interpret Areas of Special Flood Hazard boundaries, provide available flood hazard information, and provide Base Flood Elevations, where they exist; [44 CFR 60.3(b)(4)]

(4) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be maintained on file. [44 CFR 60.3(a)(2)]

(5) Review all development permit applications to determine if the proposed development is located in the floodway, and if so, ensure that the encroachment standards of Chapter IV, Section B are met. [44 CFR 60.3(d)(1)]

(6) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administration shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other authoritative source in order to administer the provisions of this ordinance. [44 CFR 60.3(b)(4)]

(7) When Base Flood Elevations or other engineering data are not available from an authoritative source, the Floodplain Administration shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding. [44 CFR 60.3(a)(3) and 60.3(a)(4)] Note: Oregon Residential Specialty Code R324.1.3 authorizes the building official to require the applicant to determine a base flood elevation where none exists.

(8) Issue Floodplain Development Permits when the provisions of this ordinance have been met, or disapprove the same in the event of noncompliance; [44 CFR 59.24]

(9) Coordinate with the Building Official to assure that applications for building permits comply with the requirements of this ordinance; [44 CFR 59.24]

(10) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no Base Flood Elevation is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures. [44 CFR 60.3(b)(5), amended to address no BASE FLOOD ELEVATION]

(11) Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no Base Flood Elevation is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administration shall obtain certification of design criteria from a registered professional engineer or architect; [44 CFR 60.3(b)(5), amended to address no BFE]

(12) Ensure that all records pertaining to the provisions of this ordinance are permanently maintained in the office of the city/county clerk or his/her designee and shall be open for public inspection. [44 CFR 60.3(b)(5)]

(13) Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with a the floodplain development permit and this ordinance, and verify that existing buildings and structures maintain compliance with this ordinance; [44 CFR 59.24]

(14) Coordinate with the Building Official to inspect areas where buildings and structures in Areas of Special Flood Hazard have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure; [44 CFR 59.24]

(15) Make Substantial Improvement or Substantial Damage determinations. [44 CFR 59.24]

C. Permit Procedures

The State of Oregon recommends that applicants be required to submit an Elevation Certificate (FEMA form 81-31) for proposed structures at the time of application for a floodplain development permit, for buildings under construction at the time of the inspection required by the Oregon Residential Specialty Code, Section R109, and upon building completion prior to issuance of a Certificate of Occupancy.

Application for a Floodplain Development Permit shall be made to the Floodplain Administration on forms furnished by the Administration or the Administration's designee prior to starting development activities. [44 CFR Part 60.3(a)(1) and (b)(1)] Specifically, the following information is required:

(1) Application Stage

- (a) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities; [Oregon Residential Specialty Code R106.5 requires one set to be retained and the second to be returned to the applicant]*
- (b) Delineation of Areas of Special Flood Hazard, floodway boundaries including Base Flood Elevations, or flood depth in AO zones, where available; [Oregon Residential Specialty Code R106.1.3]*

- (c) Elevation to which any non-residential structure will be flood-proofed; [44 CFR Part 60.3(b)(5)]
- (d) Certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the NFIP and building codes; [44 CFR Part 60.3 (c)(4)]
- (e) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development; [44 CFR Part 60.3(b)(6)]

(2) Certificate of Occupancy

- (a) In addition to the requirements of the building codes pertaining to certificate of occupancy, prior to the final inspection the owner or authorized agent shall submit the following documentation that has been prepared and sealed by a registered surveyor or engineer, [44 CFR Part 60.3(b)(5):
 - i. For elevated buildings and structures in Areas of Special Flood Hazard, the as-built elevation of the lowest floor, including basement or where no base flood elevation is available the height above highest adjacent grade of the lowest floor, and;
 - ii. For buildings and structures that have been flood proofed, the elevation to which the building or structure was flood proofed.

(4) Expiration of Floodplain Development Permit

- (a) A Floodplain Development Permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion. [44 CFR 59.1]
- (b) Commencement of work includes start of construction, when the permitted work requires a building permit. [44 CFR 59.1]

IV. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. Site Improvements and Subdivisions

(1) All proposed new development and subdivisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding. [44 CFR 60.3(a)(3) and (4)]

(2) Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less. [44 CFR 60.3(a)(4)]

(3) New development and subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage. [44 CFR 60.3(a)(4) and (5)]

(4) On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding. [44 CFR 60.3(a)(6)]

(5) Subdivisions shall have adequate drainage provided to reduce exposure to flood hazards. [44 CFR 60.3(a)(4) and 60.3(c)(1)]. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures. [44 CFR 60.3(c)(11)]

B. Floodways

(1) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge. [44 CFR Part 60.3(d)(3)]

(2) Applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before an encroachment, including fill, new construction, substantial improvement, and other development, into the floodway is permitted that will cause any increase in the base flood elevation. [44 CFR Part 60.3(d)(4)].

C. Floodway Zone

INTENT: *The Floodway Zone is intended to protect and prevent the obstruction of critical floodway of Waterman Gulch.*

FLOODWAY MAPPING: *The Floodway Zone comprises the area designated as “floodway” on the Flood Insurance Rate Map (_____) included as part of the Flood Insurance Study for the City of Athena. This study was issued on 3 September 2010 and the effective date of the mapping is 3, September 2010.*

PERMITTED DEVELOPMENT:

- 1. Agricultural cropland and pastures.*
- 2. Private landscaping and gardens.*
- 3. Public or private parks, golf courses, and other non-structural recreation development.*
- 4. Roads, streets, driveways,*
- 5. , and parking lots.*
- 6. Wildlife Management.*
- 7. Stream bank erosion control.*
- 8. Channel maintenance.*

PROHIBITED DEVELOPMENT:

- 1. Structures, including dwellings, manufactured homes, outbuildings, and farm buildings.*
- 2. Land filling, (unless balanced by an equal amount of excavation or in limited quantities as part of an erosion control project.)*
- 3. Channel or floodway blockage.*
- 4. Substantial improvement to or replacement of existing non-conforming structures*
- 5. Any fill in a floodway that will cause a rise in the base blood elevation.*
- 6. Fencing. Unless B(1&2)*

D. Building Design and Construction

Buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of Substantial Damage and Substantial Improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes, including but not limited to Section R324 of the Residential Specialty Code and Section 1612 of the Structural Specialty Code. [This Section links local ordinance to building codes. Communities may substitute Specific Building Design and Construction Standards (Appendix A) for this section.]

E. Manufactured Dwellings

- (1) New and replacement manufactured dwellings are within the scope of the building codes; and,***
- (2) All new manufactured dwellings and replacement manufactured dwellings shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.***

F. Recreational Vehicles

In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the zoning ordinance must either: [44 CFR 60.3(e)(9) and 44 CFR 60.3(c)(14)] Note: 44 CFR Part 60.3(c)(14) does not include AO zones. Application of this section in AO Zones is considered a good practice.

- (1) Be placed on the site for fewer than 180 consecutive days;***
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or***
- (3) Meet all the requirements of Chapter IV, Section F: Manufactured Dwellings, including the anchoring and elevation requirements.***

G. Other Development in Areas of Special Flood Hazard

All development in Areas of Special Flood Hazard for which specific provisions are not specified in this ordinance or in Building Codes, shall:

- (1) Be located and constructed to minimize flood damage; [44 CFR 60.3(a)(3)]***
- (2) Be designed so as not to impede flow of flood waters under base flood conditions; [Good practice]***
- (3) If located in a floodway, meet the limitations of Chapter IV, Section B of this ordinance; [44 CFR 60.3(d)(3)]***

(4) Be anchored to prevent flotation or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood; [44 CFR 60.3(a)(3)]

(5) Be constructed of flood damage-resistant materials; [44 CFR 60.3(a)(3)] and

(6) Have electric service and or mechanical equipment elevated above the base flood elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements. [44 CFR 60.3(a)(3)]

H. Requirement to Submit New Technical Data

An applicant who obtains an approved CLOMR from FEMA, or whose development modifies floodplain boundaries or base flood elevations shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM. [44 CFR Part 65.3]

I. Watercourse Alterations

A water course is considered altered when any change occurs within its banks, including installation of new culverts and bridges, or size modifications to existing culverts and bridges as shown on effective FIRM.

(1) Adjacent communities, the U.S. Army Corps of Engineers, Oregon Department of State Lands, and Oregon Department of Land Conservation and Development must be notified prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the floodplain administrator and to the Federal Emergency Management Agency. [44 CFR 60.3(b)(6)]

(2) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course so that the flood carrying capacity will not be diminished. [44 CFR 60.3(b)(7)]

J. Below-grade Crawlspace:

Below-grade crawlspace foundations are allowed, unless no Base Flood Elevations are available, provided that they conform to guidelines in FEMA TB 11-01, Crawlspace Construction for Structures Located in Special Flood Hazard Areas and building codes.

V. VARIANCE AND APPEAL PROCEDURES

A. Variance

The Athena City Recorder shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request. [44 CFR 60.6(a)(6)]

B. Criteria for Variances

(1) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result. [44 CFR 60.6(a)(1)]

(2) 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. [44 CFR 60.6(a)(2)]

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. [44 CFR 60.6(a)(4)]

(4) Variances shall only be issued upon a:

- (a) showing of good and sufficient cause;***
- (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and;***
- (c) 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. [44 CFR 60.6(a)(3)]***

(5) Variances may be issued for a water dependent use provided that the

- (a) criteria of paragraphs (a)(1) through (a)(4) of this section are met, and;***
- (b) structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. [44 CFR 60.6(a)(7)]***

(6) 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. [44 CFR 60.6(a)]

(7) 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. [44 CFR 60.6]

(8) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with building codes. [44 CFR 60.6]

C. Variance Decision

The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the base flood elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk. [44 CFR 60.6(a)(5)]

D. Appeals

The Athena City Council shall hear and decide appeals from the interpretations of the Athena Planning Commission Administration.

(1) An appeal must be filed with the City of Athena clerk within 30 days of the date of any permit denial or interpretation of the Administration. Failure to timely file an appeal shall be considered a failure to exhaust the administrative remedies. The appeal must set out the interpretation of the Administration and a narrative setting forth the facts relied upon by the appellant and the appellants claim regarding the error in the interpretation.

(2) Upon receipt of a completed appeal, the appeal will be scheduled for the next available Athena City Council meeting to be heard. The Athena City Council shall consider criteria set forth in Chapter V, Section B of this Chapter in evaluating the appeal.

E. Decision

The Athena City Council decision on appeal shall be in writing and set out the facts, technical information and the legal basis for the decision.

VI. SEVERABILITY

The ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity. [FEMA Region X]

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