



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

9/3/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Hermiston Plan Amendment
DLCD File Number 002-10

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.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, September 16, 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: Clinton Spencer, City of Hermiston
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Grant Young, DLCD Regional Representative

<paa> YA

FORM 2

DLCD

Notice of Adoption

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

☐ In person ☐ electronic ☐ mailed

DATE STAMP

DEPT OF

AUG 30 2010

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: City of Hermiston

Local file number:

Date of Adoption: August 23, 2010

Date Mailed: August 26, 2010

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date Mailed: June 25, 2010

☐ 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 adopted 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.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: n/a

to:

Zone Map Changed from: n/a

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

Please list all affected State or Federal Agencies, Local Governments or Special Districts: DLCD and DHS/FEMA

Local Contact: Clinton Spencer

Address: 180 NE 2nd Street

City: Hermiston

Zip: 97838

Phone: 541-567-5521

Extension: 5011

Fax Number: 541-567-5530

E-mail Address: cspencer@hermiston.or.us

DLCD file No. 002-10 (18380) [16308]

**CITY OF HERMISTON**

180 NE 2nd Street
Hermiston, OR 97838
(541) 567-5521
Fax: (541) 567-5530

FAX COVER SHEET

Please deliver the following to:

Name: Mara Ulloa, Plan Amendment Specialist

Company/ Location: DLCD

Fax #: 503.378.5518

From: Planning Department

Subject: Revision of Ordinance No. 2167

Date: 9/2/2010

Time: 10am

Number of pages: 13, including cover sheet

If you do not receive all of the above described material, please telephone immediately to:

Sender's name: Rhonda

Business number: (541) 667-5010

Fax number: (541) 567-5530

Comments:

ORDINANCE NO. 2167

AN ORDINANCE ADOPTING NEW FLOODPLAIN REGULATIONS, NEW FLOODPLAIN MAPS AND NEW FLOOD INSURANCE STUDY, REPEALING OLD FLOODPLAIN REGULATIONS CONTAINED IN ORDINANCE NO. 1621 AND DECLARING AN EMERGENCY.

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 153 of the Hermiston Code of Ordinances is hereby amended to read as follows:

General Provisions

- 153.01 Purpose
- 153.02 Definitions
- 153.03 Lands to which chapter applies
- 153.04 Establishing areas of special flood hazard
- 153.05 Abrogation and greater restrictions
- 153.06 Interpretation
- 153.07 Disclaimer of liability

Flood Hazard Protection

- 153.20 General standards
- 153.21 Specific standards
- 153.22 Floodways

Administration and Requirements

- 153.35 Enforcement by City Manager; duties
- 153.36 Development permit required

- 153.99 Penalty

GENERAL PROVISIONS**§ 153.01 PURPOSE.**

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

(A) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(B) Requiring that uses vulnerable to floods, including facilities which serve the uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural flood plains, stream channels and natural protective barriers which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

§ 153.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPEAL. A request for review of the Floodplain Administrator's interpretation of provisions of this ordinance or request for a variance.

AREA OF SPECIAL FLOOD HAZARD. 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."

BASEMENT. The portion of a structure with its floor sub grade (below ground level) on all sides.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year also referred as the "100-year flood." Designation on maps always includes the letter "A."

CRITICAL FACILITY. A facility that is critical for the health and welfare of the population and is especially important following hazard events. Critical facilities include essential and occupancy structures, special occupancy structures, essential facilities, transportation systems, lifeline utility systems, high potential loss facilities and hazardous material storage facilities.

DEVELOPMENT. 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. A non-basement building which has its lowest elevated floor

raised above ground level by foundation walls, shear walls, post, piers, pilings or columns.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. 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. 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. 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 or surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRMS). 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. 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. 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. 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 the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at § 153.21.

MANUFACTURED HOME. 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 Home" does not include a "Recreational Vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this chapter.

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

START OF CONSTRUCTION. 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 preparations such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE. A walled and roofed building or mobile home including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. 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.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored before the damage occurred. For the purpose of this chapter, **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.

VARIANCE. A grant of relief by the governing body from a requirement of this ordinance.

§ 153.03 LANDS TO WHICH THIS CHAPTER APPLIES.

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

§ 153.04 ESTABLISHING 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 (FIS) for Umatilla County, Oregon and it's Incorporated Cities*, dated September 3, 2010, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, Oregon 97838.

§ 153.05 ABROGATION AND GREATER RESTRICTIONS.

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

§ 153.06 INTERPRETATION.

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

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 153.07 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

FLOOD HAZARD PROTECTION

§ 153.20 GENERAL STANDARDS.

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

- (A) *Anchoring.*

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's *Manufactured Home Installation in Flood Hazard Areas* guidebook for additional techniques).

(B) *Construction material and methods.*

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) *Utilities.*

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

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D) *Subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(E) *Review of building permits.* Where elevation data is not available either through the flood insurance study or from another authoritative source, as described in § 153.35, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

§ 153.21 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevations data has been provided as set forth in §§ 153.04 or 153.35, the following provisions are required:

(A) *Residential construction.*

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

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

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

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

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

(B) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of 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 hydrostatic and hydrodynamic loads and effects of buoyancy; and

(3) Be certified by a registered engineer or architect that the design and methods of construction are in accordance with accepted standards or practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Certifications shall be provided to the official as set forth in § 153.35 (C)(2);

(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in § 153.21 (A)(2);

(5) Applicants floodproofing nonresidential 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 constructed to the base flood level will be rated as one foot below that level).

(C) *Manufactured homes.* All manufactured homes to be placed or substantially improved with Zones A1-30, AH, and AE shall be elevated on a permanent foundation that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of § 153.20 (A)(2).

(D) *Recreational vehicles.* Recreational vehicles placed on sites are required to either:

- 1) Be on the site for fewer than 180 consecutive days,
- 2) 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
- 3) Meet the requirements of §153.21(C) above and the elevation and anchoring requirements for manufactured homes.
- 4) Meet all requirements of §72.09 regarding the parking of recreational vehicles outside of recreational vehicle parks.

(E) *Critical Facilities.* 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. Floodproofing 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.

§ 153.22 FLOODWAYS.

Located within areas of special flood hazard established in § 153.04 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(A) Encroachments, including fill, new construction, substantial improvements and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If division (A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 153.20 through 153.22.

ADMINISTRATION AND REQUIREMENTS

§ 153.35 ENFORCEMENT BY CITY MANAGER; DUTIES.

(A) *Designation.* The City Manager or his designee is hereby appointed to administer and implement floodplain administration and the other standards of this chapter by granting or denying development permit applications in accordance with its provisions.

(B) *Duties and responsibilities.* Duties of the City Manager or his designee shall include but not be limited to:

(1) *Permit review.*

(a) Review all development permits to determine that the permit requirements of this chapter have been satisfied.

(b) 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.

(c) 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 § 153.22 (A) are met.

(2) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with § 153.04, the city shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of § 153.21.

(3) *Information to be obtained and maintained.*

(a) Where base flood elevation data is provided through the flood insurance study or required as in division (C)(2) above, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.

(b) For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level);
2. Maintain the floodproofing certifications required in § 153.21, division (B)(3); and
3. Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) *Alteration of watercourses.*

(a) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse and submit evidence of notification to the Federal Insurance Administration.

(b) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

(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 Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59- 76).

§ 153.36 DEVELOPMENT PERMIT REQUIRED.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 153.04. The permit shall be for all structures including manufactured homes, as set forth in the definitions, and for all other development including fill and other activities, also as set forth in the definitions. Prior to issuance of a development permit the following information is required:

- (A) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (B) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (C) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in 153.21(B); and
- (D) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

§ 153.99 PENALTY.

(A) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

(B) Any person who violates this chapter or fails to comply with any of its requirements commits a Class A violation for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.

SECTION 2. Ordinance No 1621, dated February 23, 1987 is hereby repealed and replaced with this ordinance.

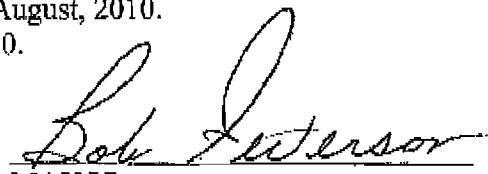
SECTION 3. Floodplain maps dated September 29, 1986 are hereby repealed and replaced with new floodplain maps provided by the Federal Emergency Management Agency and dated September 3, 2010.

SECTION 4. The findings of fact as adopted by the City Council on August 23, 2010 are incorporated herein by reference.


SECTION 5. Inasmuch as it is necessary for the health, safety, comfort and convenience of the people of the City of Hermiston that this ordinance have immediate effect, an emergency is declared to exist, and this ordinance shall be in full force and effect from and after its passage by the council and approval by the mayor.

PASSED by the Common Council this 23rd day of August, 2010.

SIGNED by the Mayor this 23rd day of August, 2010.


MAYOR

ATTEST:


CITY RECORDER

AFFIDAVIT OF POSTING

STATE OF OREGON)
) ss.
County of Umatilla)

I, Robert D. Irby, being first duly sworn, depose and say that I am the duly appointed and acting City Recorder for the City of Hermiston, Umatilla County, Oregon.


That at least two business days before the first reading of Ordinance No. 2167, I posted a written notice at Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, Oregon, that a copy of Ordinance No. 2167 was then and there available for public inspection in the office of the City Recorder.

That I provided each Council member with a copy of said ordinance before the first reading of said ordinance.


Robert D. Irby, City Recorder

Subscribed and sworn to or affirmed before me this 19th day of August, 2010.




Notary Public for Oregon
My Commission Expires: 01-15-2011

ORDINANCE NO. 2167

AN ORDINANCE ADOPTING NEW FLOODPLAIN REGULATIONS, NEW FLOODPLAIN MAPS AND NEW FLOOD INSURANCE STUDY, REPEALING OLD FLOODPLAIN REGULATIONS CONTAINED IN ORDINANCE NO 1621 AND DECLARING AN EMERGENCY.

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§ 153.01 PURPOSE.

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- (2) The unusual and rapid accumulation of runoff or surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRMS). 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. 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. 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. 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 the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at § 153.21.

MANUFACTURED HOME. 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 Home" does not include a "Recreational Vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of this chapter.

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

START OF CONSTRUCTION. 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 preparations such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE. A walled and roofed building or mobile home including a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. 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.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

- (1) Before the improvement or repair is started; or
- (2) If the structure has been damaged and is being restored before the damage occurred. For the purpose of this chapter, **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.

VARIANCE. A grant of relief by the governing body from a requirement of this ordinance.

§ 153.03 LANDS TO WHICH THIS CHAPTER APPLIES.

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

§ 153.04 ESTABLISHING 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 the City of Hermiston*, dated September 3, 2010, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, Oregon 97838.

§ 153.05 ABROGATION AND GREATER RESTRICTIONS.

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

§ 153.06 INTERPRETATION.

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

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 153.07 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

FLOOD HAZARD PROTECTION

§ 153.20 GENERAL STANDARDS.

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

- (A) *Anchoring.*

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's *Manufactured Home Installation in Flood Hazard Areas* guidebook for additional techniques).

(B) *Construction material and methods.*

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(C) *Utilities.*

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

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(D) *Subdivision proposals.*

(1) All subdivision proposals shall be consistent with the need to minimize flood damage;

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(E) *Review of building permits.* Where elevation data is not available either through the flood insurance study or from another authoritative source, as described in § 153.35, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

§ 153.21 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevations data has been provided as set forth in §§ 153.04 or 153.35, the following provisions are required:

(A) Residential construction.

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

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

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

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

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

(B) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of 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 hydrostatic and hydrodynamic loads and effects of buoyancy; and

(3) Be certified by a registered engineer or architect that the design and methods of construction are in accordance with accepted standards or practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Certifications shall be provided to the official as set forth in § 153.35 (C)(2);

(4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in § 153.21 (A)(2);

(5) Applicants floodproofing nonresidential 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 constructed to the base flood level will be rated as one foot below that level).

(C) *Manufactured homes.* All manufactured homes to be placed or substantially improved with Zones A1-30, AH, and AE shall be elevated on a permanent foundation that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of § 153.20 (A)(2).

(D) *Recreational vehicles.* Recreational vehicles placed on sites are required to either:

- 1) Be on the site for fewer than 180 consecutive days,
- 2) 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
- 3) Meet the requirements of §153.21(C) above and the elevation and anchoring requirements for manufactured homes.
- 4) Meet all requirements of §72.09 regarding the parking of recreational vehicles outside of recreational vehicle parks.

(E) *Critical Facilities.* 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. Floodproofing 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.

§ 153.22 FLOODWAYS.

Located within areas of special flood hazard established in § 153.04 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

(A) Encroachments, including fill, new construction, substantial improvements and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) If division (A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of §§ 153.20 through 153.22.

ADMINISTRATION AND REQUIREMENTS

§ 153.35 ENFORCEMENT BY CITY MANAGER; DUTIES.

(A) *Designation.* The City Manager or his designee is hereby appointed to administer and implement floodplain administration and the other standards of this chapter by granting or denying development permit applications in accordance with its provisions.

(B) *Duties and responsibilities.* Duties of the City Manager or his designee shall include but not be limited to:

(1) *Permit review.*

(a) Review all development permits to determine that the permit requirements of this chapter have been satisfied.

(b) 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.

(c) 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 § 153.22 (A) are met.

(2) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with § 153.04, the city shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of § 153.21.

(3) *Information to be obtained and maintained.*

(a) Where base flood elevation data is provided through the flood insurance study or required as in division (C)(2) above, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.

(b) For all new or substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level);
2. Maintain the floodproofing certifications required in § 153.21, division (B)(3); and
3. Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) *Alteration of watercourses.*

(a) Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse and submit evidence of notification to the Federal Insurance Administration.

(b) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

(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 Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59- 76).

§ 153.36 DEVELOPMENT PERMIT REQUIRED.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 153.04. The permit shall be for all structures including manufactured homes, as set forth in the definitions, and for all other development including fill and other activities, also as set forth in the definitions. Prior to issuance of a development permit the following information is required:

- (A) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- (B) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (C) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in 153.21(B); and
- (D) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

§ 153.99 PENALTY.

(A) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.

(B) Any person who violates this chapter or fails to comply with any of its requirements commits a Class A violation for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.

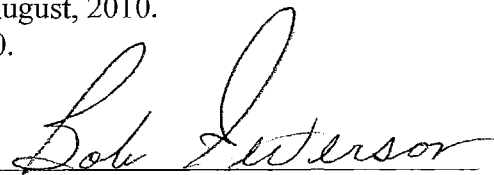
SECTION 2. Ordinance No 1621, dated February 23, 1987 is hereby repealed and replaced with this ordinance.

SECTION 3. Floodplain maps dated September 29, 1986 are hereby repealed and replaced with new floodplain maps provided by the Federal Emergency Management Agency and dated September 3, 2010.


SECTION 4. The findings of fact as adopted by the City Council on August 23, 2010 are incorporated herein by reference.

SECTION 5. Inasmuch as it is necessary for the health, safety, comfort and convenience of the people of the City of Hermiston that this ordinance have immediate effect, an emergency is declared to exist, and this ordinance shall be in full force and effect from and after its passage by the council and approval by the mayor.

PASSED by the Common Council this 23rd day of August, 2010.
SIGNED by the Mayor this 23rd day of August, 2010.


MAYOR

ATTEST:


CITY RECORDER



Planning Department

180 NE 2nd Street

Hermiston, OR 97838

Phone: (541)567-5521

Fax: (541)567-5530

planning@hermiston.or.us

To: Mayor and City Council
From: Clinton Spencer, City Planner *CS*
Subject: Proposed Revisions to Flood Plain Ordinance
Date: August 16, 2010

In order for homeowners and other property owners to participate in the National Flood Insurance program, all communities are required to adopt the national flood plain maps prepared by FEMA. These maps were last updated in 1986. FEMA has completed a new study of the Umatilla basin and prepared new maps of the flood hazards along the Umatilla River and in the city. According to the revised 2010 flood hazard study, the floodplain for the Umatilla River has not moved from its existing location on the city and federal maps. Therefore, no rezoning will be required, nor will new property be added to building restrictions for flood plains.

As a service provided to the city as part of the map updating, FEMA provided an analysis of the city's existing flood plain ordinance. A copy of that analysis is attached to this report for reference.

The modifications proposed are as follows:

1. Section 153.02, "Definitions"

- Revise definition for "Area of Special Flood Hazard" to include clarification of flood zones.
- Add new definitions for the following:
 - "Appeal"
 - "Basement"
 - "Critical facility"
 - "Elevated building"
 - "Existing manufactured home park or subdivision"
 - "Expansion to an existing manufactured home park or subdivision"
 - "Manufactured home park or subdivision"
 - "New manufactured home park or subdivision"
 - "Substantial damage"
 - "Variance"
- Revise definition for "Base flood" to clarify base flood areas.
- Revise definition for "Development" to include storage of equipment and materials.
- Revise definition for "Manufactured home" to exclude recreational vehicles.
- Revise definition for "Structure" to include gas and liquid storage tanks.

2. Section 153.04, "Establishing Areas of Special Flood Hazard"

- Revise date of flood insurance study from 1986 to 2010.

3. Section 153.36, "Development Permit Required"

- Revise language for development permit issuance to include four items which must be included with an application for a development permit.

4. Section 153.22, "Floodways"

- Revise language to comply with requirements of FEMA codes by referencing design standards in §153.21 of the flood plain code.

5. Section 153.20, "General Standards"

- Add new language to §153.20(D) to require determination of base flood elevations for new subdivision proposals within the flood plain.

6. Section 153.21, "Specific Standards"

- Revise language to amend minimum construction height for new residential structures and manufactured homes from base flood elevation to *one foot above base flood elevation*.

Requirements

Amendments to ordinances such as the flood plain ordinance and annexation ordinance are not subject to the amendment requirements contained in the zoning ordinance. The city may amend the flood plain ordinance through a simple hearing process. The proposed amendment has been deemed a legislative change in that it involves the text of the ordinance.

Notice of the proposed action for a land use regulation amendment shall be submitted to the Department of Land Conservation and Development 45 days prior to the date set for the initial hearing.

After the close of the initial evidentiary hearing, the planning commission shall make findings of fact and recommend to the city council adoption, revision or denial of the proposed amendments.

Draft Findings

Although findings are not specifically required for legislative amendments to ordinances, staff has prepared draft findings which support the proposed amendments based upon the requirements of the comprehensive land use plan.

Goal 1 and Policy 1. Citizen Involvement. The City will insure that citizens have an adequate opportunity to be involved in all phases of the planning process.

- 1) Notice of the planning commission and city council hearings was published in the Hermiston Herald at least 20 days prior to the hearing in accordance with §157.226 of the Hermiston Code of Ordinances.
- 2) No testimony was received as a result of the publication of the notice.
- 3) The planning commission held a public hearing on August 11, 2010 to receive testimony from concerned property owners.

Goal 2 and Policy 3. Intergovernmental Coordination. The City of Hermiston will facilitate intergovernmental coordination so that decisions affecting local, state, and federal planning and development actions in the Hermiston area are rendered in an efficient and consistent manner.

- 4) The notice of proposed amendment was sent to the Department of Land Conservation and Development on June 25, 2010, more than 45 days prior to the first evidentiary hearing in accord with Oregon Administrative Rules, Chapter 660, Division 18. The notice to DLCD listed Umatilla County as an affected agency.
- 5) A notice of public hearing was provided to all affected agencies by direct mail. No comments were received as a result of that mailing.

Goal 5 and Policy 7. Natural Resources. The City of Hermiston will protect natural resources to the maximum degree possible.

- 6) The city has created an Open Space zone which conforms to and follows the boundary of the 100 year floodplain. Development activities are not permitted in the OS zone. However, agricultural and public recreation activities are permitted. No additional property will be added to or removed from the OS zone as a result of adopting the new flood plain maps.
- 7) The existing OS zone provision through development limitations insures adequate protection of the riparian corridor along the Umatilla River. In the event that an agricultural or recreational structure is erected, the amended requirement to construct the floor at least one foot above base flood elevation will provide for public health and safety and minimize the likelihood that pollutants will enter the river channel in the event of a flood.

Goal 5 and Policy 14. Natural Hazards and Development Limitations. The City of Hermiston will control carefully and when necessary prohibit development in areas characterized by natural hazards and/or development limitations.

- 8) The city's Open Space zone limits or prohibits development activities in the 100 year flood plain. By limiting development activities to low impact uses such as agriculture and recreation, the likelihood of expensive structures being damaged or destroyed by flooding is minimized.

Planning Commission Action

The planning commission held a public hearing on August 11, 2010. There was no testimony in support or opposition to the proposed amendments. Following the conclusion of the hearing, the planning commission made a recommendation that the city council adopt the new flood plain maps as required by FEMA and adopt a new flood plain ordinance which complies with the requirements of the National Flood Insurance Program.

Staff Recommendation

Staff recommends that the council adopt the ordinance amendments and incorporate Ordinance 2167 into the Code of Ordinances and the new flood plain maps dated September 3, 2010 be adopted to replace the old flood plain maps dated September 29, 1986.

CITY OF HERMISTON

Hermiston Code of Ordinances
Title XV: Land Usage
Chapter 153 – Flood Hazard Prevention

Flood zones in incorporated areas of city: AE and X
(Flood Insurance Study, Hermiston, Oregon, September 29, 1986)

Ordinance Reference	Model Ordinance & CFR References	Issue(s)/Discussion/Explanation/Comments	Compliance Determination: <ul style="list-style-type: none">• Complies• Revision Required• Revision Recommended• Discuss with City
Section 153.02 (Definitions)	3.2 44 CFR §59.1 DEFINITIONS	The following definitions from the city code meet the definitions in the CFR and the FEMA model ordinance: <ul style="list-style-type: none">• “flood or flooding”• “Flood Insurance Rate Map (FIRM)”• “Flood Insurance Study”• “floodway”• “lowest floor”• “new construction”• “start of construction”• “substantial improvement”	Complies; revisions recommended as indicated below. Discuss with city.

CITY OF HERMISTON

Hermiston Code of Ordinances Title XV: Land Usage Chapter 153 – Flood Hazard Prevention

Flood zones in incorporated areas of city: AE and X
(Flood Insurance Study, Hermiston, Oregon, September 29, 1986)

		<p>The following applicable definitions in the CFR and FEMA model code apparently are <u>not</u> in section 153.02:</p> <ul style="list-style-type: none">• “appeal”• “basement”• “critical facility”• “elevated building”• “existing manufactured home park or subdivision”• “expansion to an existing manufactured home park or subdivision”• “manufactured home park or subdivision”• “new manufactured home park or subdivision”• “substantial damage”• “variance” <p>The city’s definition of “area of special flood hazard” should be revised by adding the following underlined wording: <u>“Designation on maps always included the letter A.”</u></p>	<p>Revisions recommended</p> <p>Revision recommended</p>
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CITY OF HERMISTON

Hermiston Code of Ordinances
Title XV: Land Usage
Chapter 153 – Flood Hazard Prevention

Flood zones in incorporated areas of city: AE and X
(Flood Insurance Study, Hermiston, Oregon, September 29, 1986)

		<p>The city's definition of "base flood" should be revised by adding the following underlined wording: "<u>Also referred as the '100-year flood.'</u> Designation on maps always includes the letter A."</p> <p>The city's definition of "development" should be revised by adding the following underlined wording: "...drilling operations <u>or storage of equipment or materials</u> located within the area of special flood hazard."</p> <p>The city's definition of "manufactured home" should be revised to indicate that the term does <u>not</u> include "recreational vehicles." Also, the city definition of "manufactured home" contains confusing, possibly contradictory, wording by <u>including for floodplain management purposes</u> park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days; but then <u>excludes for insurance purposes</u> park trailers, travel trailers and other similar vehicles.</p>	<p>Revision recommended</p> <p>Revision recommended</p> <p>Revision recommended following DLCD consultation with FEMA. Discuss with city in conjunction with any revision made to Chapter 153 to regulate "recreational vehicles."</p>
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CITY OF HERMISTON

Hermiston Code of Ordinances Title XV: Land Usage Chapter 153 – Flood Hazard Prevention

Flood zones in incorporated areas of city: AE and X
(Flood Insurance Study, Hermiston, Oregon, September 29, 1986)

		<p>The city's definition of "structure" should be revised by adding the following the underlined wording: "...or mobile home <u>including a gas or liquid storage tank</u> that is principally above ground."</p> <p>The following terms from the FEMA model code are included or otherwise addressed in Chapter 153:</p> <ul style="list-style-type: none"> • "Abrogation and Grater Restrictions" (see section 153.05) • "Interpretation" (see section 153.06) • "Warning and Disclaimer of Liability" (see section 153.07) • "Penalties for Noncompliance" (see section 153.99) 	<p>Revision recommended</p> <p>Complies</p>
Section 153.04 (Establishing Areas of Special Flood Hazard)	3.2 44 CFR §60.3(c)(1) & (d)(2) BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD (MAP/FIS REFERENCES)	<p>This section references the FIS study and accompanying FIRM maps prepared for the city. However the date shown for the FIS study is incorrect. It should be <u>September 29, 1986</u>, not September 11, 1985.</p> <p><u>Note:</u> Section 153.04 does <u>not</u> include the FEMA recommended language re. "automatic" adoption of future flood map revisions. However, DLCD has been advised</p>	<p>Revision required</p> <p>Revision required based on further DLCD consultation with DOJ; discuss with city.</p>

CITY OF HERMISTON

Hermiston Code of Ordinances Title XV: Land Usage Chapter 153 – Flood Hazard Prevention

Flood zones in incorporated areas of city: AE and X
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		the Oregon Department of Justice (DOJ) that such method for adopting future map changes may conflict with state law.	
Sections 153.36 (Development Permit Required)	4.1-1 44 CFR §60.3(b)(1) PERMIT REQUIRED	Section 153.36 complies with section 4.1-1 of the FEMA model code which requires that a development permit be obtained before construction or development with a special flood hazard area. However, it does <u>not</u> appear that Chapter 153 complies with section 4.1-2 in the FEMA code specifying the four (4) items of information required for a development permit.	Complies Revision required to comply with section 4.1-2 in the FEMA model code.
Subsection 153.35 (B) (1) (b) (Permit Review)	4.3-1(2) 44 CFR §60.3(a)(2) OTHER PERMITS	No issues	Complies
Subsection 153.35 (B) (2) (Use of Other Base Flood Data)	4.3-2 44 CFR §60.3(b)(4) USE OF OTHER BASE FLOOD DATA	While this subsection correctly references using other base flood data in administering section 153.21 (Specific Standards), it does <u>not</u> also reference section 153.22 (Floodways) as required by section 4.3-2 in the FEMA model code.	Revision required

CITY OF HERMISTON

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Flood zones in incorporated areas of city: AE and X
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Subsection 153.35 (B) (3) (Information to be Obtained and Maintained)	4.3-3 44 CFR §60.3(b)(5) INFO. TO BE OBTAINED	No issues	Complies
Subsection 153.35 (B) (4) (a) (Alteration of Watercourses)	4.3-4(1) 44 CFR §60.3(b)(6) NOTICE OF WATERCOURSE ALTERATION	No issues	Complies
Subsection 153.35 (B) (4) (b) (Alteration of Watercourses)	4.3-4(2) 44 CFR §60.3(b)(7) MAINTENANCE OF WATERCOURSE	No issues	Complies
Subsection 153.35 (B) (5) (Interpretation of FIRM Boundaries)	4.3-5 44 CFR §60.3 INTERPRETATION OF FIRM	No compliance issues. However it is suggested that the city consider revising this and other related sections of Chapter 153 to provide additional information about under what circumstances and by what procedures persons objecting to city interpretations of flood hazard boundaries can appeal the city's action. It is also suggested that this chapter also provide additional guidance for those persons who wish to appeal to FEMA about the location of a floodplain boundary and/or BFE determination.	Complies but with recommended revisions to provide further information to persons wishing to appeal city interpretations and FEMA mapping.

CITY OF HERMISTON

Hermiston Code of Ordinances Title XV: Land Usage Chapter 153 – Flood Hazard Prevention

Flood zones in incorporated areas of city: AE and X
(Flood Insurance Study, Hermiston, Oregon, September 29, 1986)

Chapter 153	4.4 44 CFR §60.6 VARIANCES	Review of Chapter 153 reveals that it does <u>not</u> contain or reference a variance procedure addressing the processes, standards and conditions in section 4.4 of the FEMA model code. If the city does intend to specifically authorize variances in it flood zone, then the city will need to adopt a variance procedure that complies with the applicable requirements in section 4.4 of the FEMA code.	Revision required if the city intends to permit variances in its flood hazard areas. Discuss with the city about addressing the requirements in the variance section (4.4) of the FEMA model code.
Subsection 153.20 (A) (1) (Anchoring)	5.1-1(1) 44 CFR §60.3(a)(3)(i) ANCHORING	No issues	Complies
Subsection 153.20 (A) (2) (Anchoring)	5.1-1(2) 44 CFR §60.3(b)(8) ANCHORING MANUFACTURED HOMES	No issues	Complies
Chapter 153	5.1-2 44 CFR §60.3(c)(11) AH ZONE	There are no AH flood zone areas in the city.	Not applicable

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Subsection 153.20 (B) (Construction Material and Methods)	5.1-3(1)-(3) 44 CFR §60.3(a)(3)(ii)-(iv) CONSTRUCTION MATERIALS & METHODS	No issues	Complies
Subsection 153.20 (C) (Utilities)	5.1-4 44 CFR §60.3(a)(5) & (6)(i)-(ii) UTILITIES	No issues	Complies
Subsection 153.20 (D) (Subdivision Proposals)	5.1-5 44 CFR §60.3(a)(4)(i)-(iii) & (b)(3) SUBDIVISIONS	This subsection needs to be amended as follows by adding a new #4 to comply with 5.1-5 (4) in the FEMA model code: <u>(4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed development which contain at least 50 lots or five (5) acres (whichever is less).</u>	Revision required. Confirm that there are no A flood zones in the city.
Subsection 153.20 (E) (Review of Building Permits)	5.1-6 44 CFR 60.3(a)(3) REASONABLY SAFE FROM FLOODING	No issues	Complies

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Section 153.21 (Specific Standards)	5.2 44 CFR §60.3(c)(1) SPECIFIC STANDARDS	See below	See below for specific compliance determinations for these requirements.
Subsection 153.21 (A) (Residential Construction)	5.2-1 44 CFR §60.3(c)(2) & (5) RESIDENTIAL STANDARDS	Subsection 153.21 (A) (1) does <u>not</u> comply with the ORSC requirement to elevate new or substantially improved residential structures <u>one foot above BFE</u> .	Revision required
Subsection 153.21 (B) (Nonresidential Construction)	5.2-2 44 CFR §60.3(c)(3) & (4) NON-RESIDENTIAL STANDARDS	No issues	Complies
Subsection 153.21 (C) (Manufactured Homes)	5.2-3 44 CFR §60.3(c)(6) MANUFACTURED HOME STANDARDS	Subsection 153.21 (C) does <u>not</u> comply with the OMHPSC requirement to elevate new or substantially improved manufactured homes <u>one foot above BFE</u> .	Revision required
Chapter 153	5.2-4 44 CFR §60.3(c)(14) RECREATIONAL VEHICLE STANDARDS	The city has <u>not</u> adopted any specific regulations as specified in section 5.2-4 of the FEMA model code for siting recreational vehicles in its flood hazard areas.	Revision required. Discuss with city.

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Chapter 153	5.3 44 CFR §60.3(c)(10) BEFORE REGULATORY FLOODWAY	The city has no flood zones with BFEs determined but with no floodways established.	Not applicable
Section 153.22 (Floodways)	5.4 44 CFR §60.3(d)(3) FLOODWAY STANDARDS	No issues	Complies
Chapter 153	5.5 44 CFR §60.3(c)(7), (8), (11), (14) & (d)(1) AO ZONES	There are no AO flood zone areas in the city.	Not applicable
Chapter 153	5.6 44 CFR §60.3(e) V ZONES	There are no V flood zone areas in the city.	Not applicable
Chapter 153	5.7 N/A (not addressed in CFRs but in guidelines to EO 11988) CRITICAL FACILITIES	As noted above, the city does <u>not</u> have a definition of “ critical facility .” The city should consider amending its flood zone regulations to <u>either</u> specifically prohibit such facilities from flood hazard areas, or adopt a definition and appropriate standards consistent with section 5.7 in the FEMA model code for siting them in such areas.	Revision recommended

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Chapter 153	N/A(not addressed in model ordinance or CFRs) EXEMPT USES	Chapter 153 does not appear to list any exempt uses in its flood hazard areas.	Not applicable but confirm with city whether it permits any exempt uses in its flood hazard areas.
Chapter 153	N/A(not addressed in model ordinance or CFR) ACCESSORY USES	Chapter 153 does <u>not</u> contain any specific regulations regarding accessory uses in its flood hazard areas.	Not applicable but confirm with city whether it has any regulations for accessory uses in its flood hazard areas.
Section 153.35 (A and B) (Enforcement by City Manager; Duties)	4.2 N/A (not addressed in CFRs) LOCAL ADMINISTRATOR	While this section does not specifically identify the city manager as the Local floodplain Administrator, it is clear from the section that this individual performs these duties.	Complies. Revision recommended designating the city manager as the Local Floodplain Administrator.
Chapter 153	N/A (not addressed in model ordinance) See instead FEMA Technical Bulletin 11-01; copy enclosed. Specifications for below-grade crawlspaces are defined within this Bulletin.	Below-grade crawlspace construction can be allowed in the floodplain provided that NFIP specifications are met. Most local governments in Oregon have addressed compliance with these specifications through the building permit process and not within their floodplain ordinances. FEMA HQ's last	If the city does intend to allow below grade crawlspace construction in the floodplain, then the city will need to add language specifically allowing below grade

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		<p>stated position is that allowing below grade crawlspaces requires an affirmative action on the part of each local government, i.e. below grade crawlspace language must be adopted in the local floodplain ordinance.</p> <p>Chapter 153 does not specifically address below grade crawlspaces.</p>	<p>crawlspaces that meet NFIP specifications.</p> <p>Note: Floodplain insurance premiums are higher for a structure built with a below-grade crawlspace – even if the crawlspace meets the FEMA specifications (see FEMA Technical Bulletin 11-01) – than for the same structure built with a crawlspace that has the inside grade of the crawlspace at the same level as the outside grade.</p>
HIGHER REGULATORY/OTHER LOCAL STANDARDS:			

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REVIEWER NOTES:			

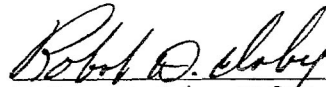
AFFIDAVIT OF POSTING

STATE OF OREGON)
) ss.
County of Umatilla)

I, Robert D. Irby, being first duly sworn, depose and say that I am the duly appointed and acting City Recorder for the City of Hermiston, Umatilla County, Oregon.

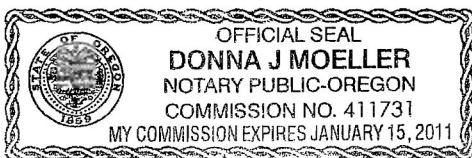
That at least two business days before the first reading of Ordinance No. 2167, I posted a written notice at Hermiston City Hall, 180 N.E. 2nd Street, Hermiston, Oregon, that a copy of Ordinance No. 2167 was then and there available for public inspection in the office of the City Recorder.

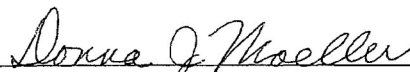
That I provided each Council member with a copy of said ordinance before the first reading of said ordinance.



Robert D. Irby, City Recorder

Subscribed and sworn to or affirmed before me this 19th day of August, 2010.





Notary Public for Oregon
My Commission Expires: 01-15-2011

City of Hermiston
Planning Department
180 NE 2nd Street
Hermiston, OR 97838



ATTN: Plan Amendment Specialist
DLCD
635 Capitol Street NE, Ste 150
Salem, OR 97301-2540