



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

3/2/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Scappoose Plan Amendment
DLCD File Number 002-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, March 15, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The 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: Brian Varricchione, City of Scappoose
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Gary Fish, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

FEB 23 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 Scappoose**

Local file number: **DCTA1-09**

Date of Adoption: **2/16/10**

Date Mailed: **2/22/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 11/20/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The City proposes to revise the provisions of the "Sensitive Lands—Flooding" chapter of the Development Code to conform to requirements of the National Flood Insurance Program. Code amendments reflect the input of staff from the Federal Emergency Management Agency (FEMA) and Department of Land Conservation and Development (DLCD). Includes provisions from the Oregon Model Flood Damage Prevention Ordinance.

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

FEMA staff required additional minor text amendments, including changes to the definition of "substantial improvements," removal of exemptions for agricultural practices which may constitute development, clarification on development in areas where base flood elevation data is not available, and shortening the timeframe for which permits are valid.

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. 002-09 (17960) [16006]

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

FEMA, DLCD

Local Contact: **Brian Varricchione** Phone: **(503) 543-7184** Extension:
Address: **33568 E. Columbia Avenue** Fax Number: **503-543-5679**
City: **Scappoose** Zip: **97056** E-mail Address: **brianvarricchione@ci.scappoose.or.us**

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.

CITY OF SCAPPOOSE

33568 EAST COLUMBIA AVENUE
SCAPPOOSE, OREGON 97056
(503) 543-7146
FAX: (503) 543-7182

NOTICE OF LAND USE DECISION

Date: February 22, 2010
To: Interested Persons
From: Brian Varricchione, City Planner, (503) 543-7184
Subject: Development Code Text Amendment DCTA1-09

The City of Scappoose has reviewed Development Code Text Amendment DCTA1-09 and has approved the application. On February 16, 2010, the City Council adopted Ordinance 809 approving the application. Copies of the ordinance are available for review upon request.

The Scappoose Planning Commission held a public hearing on January 14, 2010 and recommended that the City Council approve the application. The City Council held public hearings on February 1, 2010 and February 16, 2010. The first reading of the ordinance took place on February 1, 2010, with the second reading on February 16, 2010. The Council adopted the findings contained in the staff report dated January 25, 2010.

All notices required by Scappoose Municipal Code Chapter 17.160 have been met for this application, and the application was considered in regard to applicable criteria found in the Scappoose Comprehensive Plan and Chapters 17.22 (Amendments to the Title, Comprehensive Plan, and Maps), 17.84 (Sensitive Lands—Flooding), and 17.160 (Procedures for Decision Making—Legislative) of the Municipal Code.

The approval of DCTA1-09 by the Scappoose City Council is final. This decision may be appealed by filing a Notice of Intent to Appeal with the state Land Use Board of Appeals within 21 days of the date the decision became final as described by OAR 661-010-0010(3).

General Information

Request: Approval of amendments to the Development Code regarding the rules and regulations for development within the floodplain.

Applicant: City of Scappoose


Procedural Information

About this Decision. This land use decision is not a permit for development. Permits may be required prior to any future work. Contact the City at (503) 543-7184 for information about permits.

The application for this land use review was submitted on intake November 1, 2009, and was determined to be complete on November 20, 2009.

Land Use applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. This application was reviewed against the Development Code in effect on November 1, 2009.

The file and all evidence on this case is available for your review by appointment. Please call (503) 543-7184 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find the City of Scappoose Municipal Code online at <http://www.ci.scappoose.or.us/ordinances.html>.



Brian Varricchione, City Planner
Mailed 2/22/10

ORDINANCE NO. 809

AN ORDINANCE RELATING TO LAND USE AND AMENDING MUNICIPAL CODE CHAPTERS 17.26 (DEFINITIONS) AND 17.84 (SENSITIVE LANDS--FLOODING)

WHEREAS, the City of Scappoose participates in the National Flood Insurance Program (NFIP) and is obligated to comply with the minimum standards of the NFIP, and

WHEREAS, the Federal Emergency Management Agency administers the NFIP and is requiring amendments to the City's floodplain regulations to meet NFIP standards, and

WHEREAS, the proposed amendments will align the City's floodplain regulations with the provisions of the Oregon Model Flood Damage Prevention Ordinance, and

WHEREAS, the Planning Commission held a hearing on the application on January 14, 2010 and the City Council held hearings on the application on February 1, 2010 and February 16, 2010; now therefore,

THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

Section 1. The definition of "Scappoose Creek Flood Plain" in Section 17.26.030 of the Scappoose Municipal Code is amended to read as follows:

"Scappoose Creek Flood Plain" means the Areas of Special Flood Hazard adjacent to Scappoose Creek identified in the "Flood Insurance Study for Columbia County, Oregon and Incorporated Areas" dated August 16, 1988, with accompanying Flood Insurance Rate Maps. These areas are designated on the maps as Zones A, AE, or AO.

Section 2. Chapter 17.84 of the Scappoose Municipal Code is hereby amended as indicated in Exhibit A, attached hereto and hereby incorporated by reference.

Section 3. In support of this ordinance, the City Council adopts the recommendation of the Scappoose Planning Commission and the findings of fact in the Staff Report dated January 25, 2010, attached hereto as Exhibit B.

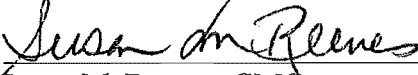
PASSED AND ADOPTED by the City Council this 16th day of February, 2010, and signed by the Mayor and City Recorder in authentication of its passage.

CITY OF SCAPPOOSE, OREGON



Scott Burge, Mayor

First Reading: February 1, 2010
Second Reading: February 16, 2010

Attest: 

Susan M. Reeves, CMC
City Recorder

Exhibit A of Ordinance No. 809 – Amendments to Scappoose Municipal Code Chapter 17.84

(Language to be omitted is ~~struckthrough~~, proposed language additions are double underlined)

Chapter 17.84

SENSITIVE LANDS--FLOODING

Sections:

- 17.84.010 Purpose.
- 17.84.015 Definitions.
- 17.84.030 General provisions.
- 17.84.040 Permitted uses.
- 17.84.050 Administration.
- 17.84.060 Approval process.
- 17.84.070 Maintenance of records.
- 17.84.120 Alteration of water courses.
- 17.84.130 Interpretation of FIRM boundaries.
- 17.84.140 Standards.
- 17.84.170 Regulations pertaining to fill.
- 17.84.180 Floodways.
- 17.84.190 Special standards for Zone AO-zones.
- 17.84.200 Special regulations for development in the Scappoose Creek floodway fringe (Zones A, AE, and AO-zones).
- 17.84.210 Storage, placement or stockpiling buoyant or hazardous materials in flood hazard areas (Zones A, AE, and AO, shaded X-zones).
- 17.84.220 Variances to flood damage prevention.
- 17.84.230 Expiration of approval--Standards for extension of time.
- 17.84.250 Application submission requirements.

17.84.010 Purpose.

A. 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 flooding. In general, the city's flood hazard chapter is designed:

1. To protect human life and health;
2. To minimize expenditures of public money and costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard.

B. The city seeks to minimize or mitigate flood hazards by:

1. Implementing FEMA floodplain requirements for participation in the National Flood Insurance Program;
2. Prohibiting all encroachments in floodways (including parking lots) unless ~~it is~~ conforms they conform to Chapter 17.84.180;
3. Establishing a general development permit process to ensure compliance with FEMA regulations;

4. Establishing specific requirements for construction or substantial improvements in the floodway fringe and Zone AO-zones;
5. Requiring planning commission review and approval of proposals to store, place or stockpile buoyant or hazardous materials in special flood hazard areas;
6. Advocating the construction of cluster developments in special flood hazard areas over other types of development;
7. Prohibiting filling in floodways and regulating filling in floodway fringe areas to conform to Section 17.84.170 of this title.

17.84.015 Definitions.

For the purposes of this chapter, the following definitions apply:

“Accessory structures” includes sheds or small detached garages ~~that are exempt from elevation or flood proofing requirements.~~ —(Note Section 17.84.140-)(I.)

“Applicant” refers to a person, organization, or agency applying for a development permit.

“Area of special flood hazard (SFHA)” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation of maps always includes the letter “A” (e.g., A, AE, AO). Federally ~~backed~~regulated lending institutions require the purchase of flood insurance for residential and some nonresidential structures in these zones.

“Base flood” means the flood having a one percent chance of being ~~equalled~~equaled or exceeded in any given year. Also referred to as the “100-year” flood. Map designation always includes the letter “A” (e.g., A, AE, AO).

~~“Conditional letter of map revision” or “CLOMR” means a FEMA procedure to accommodate situations where proposed actions would have a net public benefit, but would produce a rise in the base flood elevation.~~

“Base flood elevation (BFE)” means the elevation of the base flood.

“Buoyant material” means a material which displaces a weight of water equal to its own weight; capable of floating.

“Development” means any manmade change to improved or unimproved real estate. This includes, but is not limited to buildings or other structures, fill, riprap, dikes and jetties. Development activities include mining, dredging, paving, grading, filling, excavating or drilling operations or storage of equipment or materials located within the area of special flood hazard.

“Development permit” refers to a document or building permit authorizing an applicant to commence construction/development activities in a special flood hazard area.

~~“Federal emergency management agency~~Emergency Management Agency (FEMA)” means the federal agency charged with implementing the National Flood Insurance Program. FEMA provides ~~floodplain maps~~Flood Insurance Rate Maps with the accompanying Flood Insurance Study to the city of Scappoose.

“Fill” means the ~~placement or removal~~ of any material on the land for the purpose of increasing its elevation in relation to that which exists. Fill materials include ~~but-is~~ are not limited to the following: soil, rock, concrete, etc.

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

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

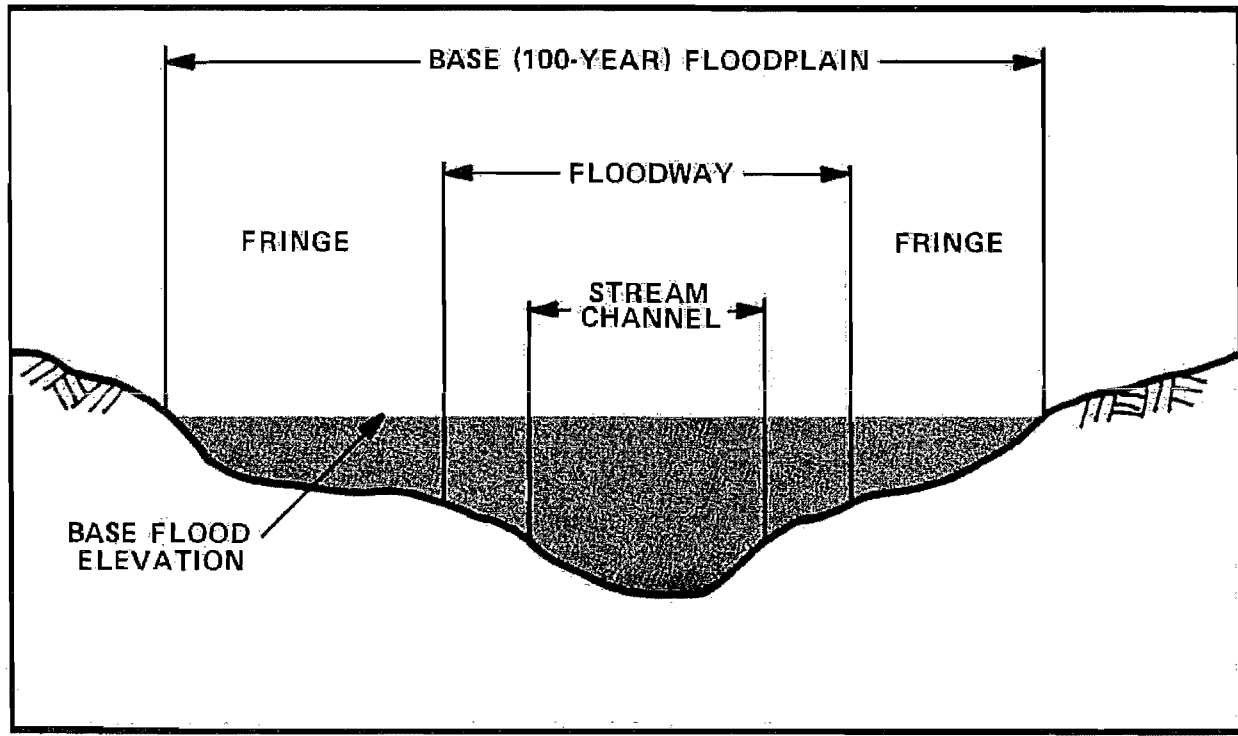
“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that

must be reserved in order to discharge the base flood without increasing the water surface elevation more than one foot. Once established, nothing can be placed in the floodway that would cause any rise in base flood elevations. The city generally prohibits encroachments on designated floodways. However, there are special provisions for public works projects. (Section 17.84.180, Floodways). Floodways are depicted on the flood relationships diagram set out below at the end of this chapter.

Floodplain Relationships Diagram



“Floodway fringe” refers to those areas outside the floodway but within the one hundred-year floodplain. Zone designations on Flood Insurance Rate Maps include A, AE, AO and shaded X. Note floodway relationships diagram set out above at the end of this chapter.

“Hazardous material” refers to a combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.

“Highway ready” refers to a park trailer, travel trailer, or other recreational vehicle, which is on wheels or a jacking system. The vehicle is attached to the site by quick disconnect security devices and utility systems. A highway ready vehicle does not have any permanently attached additions.

“Lowest floor” means the lowest portion of the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable ~~nonelevation~~ non-elevation design requirements of this chapter found at Section 17.84.140.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation; ~~travel trailers, park trailers, and similar vehicles are considered~~ when attached to be the required utilities. The term “manufactured homes if they occupy a site in a SFHA for one hundred eighty consecutive days or more and are home” does not fully licensed and highway ready. (Note definition for “Highway ready.”) include a “recreational vehicle.” All manufactured homes in a

SFHA ~~must~~shall be anchored to a permanent foundation pursuant to Section 17.84.140.

“New construction” means structures for which the “start of construction” commenced on or after the effective date of this chapter.

~~“Planned development (PD)” refers to a form of development usually characterized by a united site design for a number of housing units. Planned developments include clusters of buildings with common open space. Such developments allow for greater housing densities than that associated with single lot zoning.~~

“Permanent foundation” means an approved structural support system that is capable of resisting flood forces. A building ~~(including manufactured homes)~~ anchored to a permanent foundation ~~will~~is required to resist flotation, collapse, or lateral movement produced by a one hundred-year flood. A permanent foundation may include reinforced piers or block walls, posts, concrete walls, properly compacted fill or other systems of equivalent strength. Dry stacked concrete blocks do not constitute a reinforced pier.

“Public works projects” refers to projects that are necessary to enhance or maintain general public welfare. Such projects may include, but are not limited to, flood control structures, public buildings, city infrastructures, utilities, parks and projects associated with resource protection.

~~“SFHA-”~~ See “Special flood hazard area.”

“Recreational Vehicle” means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

“Special flood hazard area” (SFHA) refers to areas that are subject to a one hundred-year flood. They are depicted on Flood Insurance Rate Maps by the letter “A.” In Scappoose, this would include Zone A, AE and AO-zones. See “Zone designations.”

“Special land use permit” refers to a document authorizing an applicant to store or stockpile buoyant or hazardous materials in a special flood hazard area. Requires planning commission approval.

“Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty 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 or 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 ~~unit or not part of the main structure~~units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

~~“Structures~~Structure” is a term that, for floodplain management purposes, means a walled and roofed building. The term also includes manufactured homes, and gas and liquid storage tanks that are principally above ground.

“Substantial improvement” means any repair, rehabilitation, addition, reconstruction or other improvement of a structure, that includes the cumulative value of all building permits, and the cost of which equals or exceeds twenty-five percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term does not, however, include either: (1) Any project for

improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Zone designations:

1. ~~FH (flood hazard) overlay zone appears on the city of Scappoose plan map. It coincides with areas subject to flooding and regulated by this chapter.~~

2. Zone A zone (lacking a base flood elevation) is depicted on FEMA Flood Insurance Rate Maps. It represents areas subject to a one hundred-year flood event but for which no base flood elevations have been calculated/determined. This does not, however, remove a builder's responsibility for obtaining base flood elevations. Sections 17.84.050(C) and 17.84.140-~~(D)~~(4) are applicable in an Zone A zone.

3. ~~2. Zone AE zone~~ (base flood elevation provided) is depicted on FEMA Flood Insurance Rate Maps. It represents areas subject to a one hundred-year flood event. Base flood elevations appear on the map.

4. ~~AO3. Zone AO~~ represents areas of shallow flooding on FEMA Flood Insurance Rate Maps. Depths vary between one and three feet and are shown on the map. The nature of Zone AO zones ~~make them~~ makes it a special easement for which special standards are required. (Note Section 17.84.190.)

5. ~~4. Zone X zone~~ (shaded) appears on Flood Insurance Rate Maps. The shaded Zone X zone represents areas subject to a one hundred-year flood event but where depths are less than one foot or the drainage area is less than one square mile. Shaded Zone X zones in the vicinity of Scappoose ~~are~~ is also associated with areas protected by dikes or levees from a one hundred-year flood. This chapter does not regulate development activities in shaded Zone X zone.

17.84.030 General provisions.

A. This chapter shall apply to all special flood hazard areas (Zones A, AE, AO zones) within the jurisdiction of the city.

B. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The the "Flood Insurance Study for the city, Columbia County, Oregon and Incorporated Areas" dated August 16, 1988," with accompanying Flood insurance Map/Insurance Rate Maps, is adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at City Hall, 52432 SE First Street, Scappoose, Oregon, 97056 ~~the Planning Department~~.

C. All new construction and substantial improvements shall be constructed with materials and utilize equipment resistant to flood damage.

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

E. 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.

F. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system in accordance with the Uniform state of Oregon Building Code/Codes and Uniform Plumbing Code.

G. All new construction, all manufactured homes and substantial improvements shall be anchored to prevent flotation, collapse ~~or~~ and lateral movement of the structure.

H. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

17.84.040 Permitted Uses.

A. The following uses shall be permitted in special flood hazard areas and shall not require a permit under this chapter:

- ~~1. Agricultural uses conducted without locating a structure; which do not meet the definition of "development";~~
- ~~2. Community recreation uses such as bicycle and pedestrian paths or athletic fields or parks, excluding structures;~~
- ~~3. Public and private conservation areas for water, soil, open space, forest and wildlife resources;~~
- ~~4. Removal of poison oak, tansy ragwort, blackberry or other noxious vegetation; and~~
- ~~5. Maintenance of floodway excluding re-channeling; and~~
- ~~6. Fences, except in the floodway area.~~

3. Fences outside the floodway with sufficient openings so as not to impede, retard, or change the direction of the flow of water or catch or collect debris carried by such water. All other fences shall require applicable development permits.

B. The following uses shall be permitted in special flood hazard areas and shall require a development permit under this Chapter in addition to any applicable federal, state or county permits:

1. Residential zones: A single-family detached dwelling or a single-family manufactured home and their accessory uses on lots greater than 20,000 square feet where a structure is to be placed within an area regulated by this Chapter;
2. Commercial and Industrial zones: Permitted uses of the underlying zone and their accessory uses on lots greater than 20,000 square feet where a structure is to be placed within an area regulated by this Chapter;
3. Installation, reconstruction or improvement of underground utilities and construction of roadway improvements including sidewalks, curbs, streetlights and driveway aprons;
4. Minimal ground disturbance(s) but no landform alterations; and

~~5. Repair, reconstruction or improvement of an existing structure or utility, the cost of which is less than fifty percent of the market value of the structure as determined by the county tax assessor prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway.~~

5. Substantial improvements to existing structures;
6. Community recreation uses such as bicycle and pedestrian paths or athletic fields or parks;
7. Public and private conservation areas for water, soil, open space, forest and wildlife resources; and
8. Public works projects.

C. A development permit shall be obtained before construction or development begins within any area of special flood hazard or drainageway unless specifically allowed in subsection A of this section. The permit shall apply to all structures including manufactured homes.

17.84.050 Administration.

A. The planner is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with the Chapter 17.162.

B. Duties of the planner shall include, but not be limited to:

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;
3. Review all development permits to determine if the proposed development is located in

the floodway. If located in the floodway, assure that the encroachment provisions of Section 17.84.180 are met;

4. Review all applications for a development permit to determine if the proposed project is located in the floodway fringe. If located in the floodway fringe, assure the special standards requirements are met (Section 17.84.200).

C. When base flood elevation data has not been provided in accordance with Section 17.84.030, the applicant shall supply such data. In this instance, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

D. The recipient of a development permit ~~must~~shall provide certification from a registered engineer, or surveyor that buildings are elevated or flood-proofed according to standards set forth in Section 17.84.140. Appropriate certification forms will be provided by the city.

E. A development permit shall not be issued for construction in Zone AE and/or Zone AO zones within the Scappoose Creek floodway fringe until the application satisfies the requirements set forth in Section 17.84.200.

F. Applicants receiving a development permit to construct or substantially improve a residential or nonresidential structure in ~~an~~Zones A and/or AE zone ~~must~~shall comply with applicable standards in Sections 17.84.140, and 17.84.200.

G. Applicants receiving a development permit to construct or substantially improve a residential or nonresidential structure in ~~an~~Zone AO zone ~~must~~shall comply with applicable standards in Section 17.84.140, 17.84.190 and 17.84.200.

H. A special land use permit, requiring planning commission approval, ~~must~~shall be obtained prior to storing or stockpiling buoyant or hazardous materials in a special flood hazard area. (See Section 17.84.210.)

17.84.060 Approval process.

A. The applicant for a development permit shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. The planner and public works director shall review all development permit applications to determine that all necessary permits are obtained from those federal, state, or local governmental agencies from which prior approval is also required.

C. The planner shall apply the standards set forth in this chapter when reviewing an application for a development permit.

17.84.070 Maintenance of records.

A. When base flood elevation data is provided through the Flood Insurance Study or required as in Section 17.84.050(C), the applicant shall provide certification of the actual elevation in relation to mean sea level of the lowest 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, the applicant shall submit a ~~certificate~~Floodproofing Certificate by a registered surveyor verifying and recording the actual elevation (in relation to mean sea level) prior to construction and the actual elevation (in relation to mean sea level) to which the structure was floodproofed.

~~(in relation to mean sea level) prior to construction, the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.~~

C. The planner shall maintain the floodproofing certifications required in this chapter.

D. The planner shall maintain for public inspection all other records pertaining to the provisions in this chapter.

17.84.120 Alteration of water courses.

- A. The planner shall notify ~~the appropriate federal adjacent communities and state agencies~~ the State Department of Land Conservation and Development prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Insurance Administration.
- B. The planner shall require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

17.84.130 Interpretation of FIRM boundaries.

The planner shall make interpretation, where needed, as to exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be 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 ~~597659-76~~).

17.84.140 Standards.

In all Zone A, Zone AE, and Zone AO zones, the following standards are required:

A. Anchoring.

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

2. All manufactured homes ~~must~~ shall likewise be anchored to prevent flotation, collapse ~~or~~ and 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 Materials and Methods.

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

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

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

C. Utilities.

1. All new and replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the system.

2. New and replacement water supply systems shall be designed to eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

3. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding, consistent with Oregon Department of Environmental Quality standards.

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 or eliminate flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, the ~~developer~~ applicant shall provide such information.

E. New construction and substantial improvement of any residential structure shall have the lowest ~~habitable~~-floor, including basement, elevated to one foot or more above base flood elevation. 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~~shall either be certified by a registered professional engineer or ~~must~~shall meet or exceed the following minimum criteria:

1. A minimum of two openings with a net area of not less than two square inches for every square foot of enclosed area subject to flooding shall be provided;
2. The bottom of all openings shall be no higher than one foot above grade;
3. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters; and
4. Screening, fencing or otherwise obstructing open areas between pillars on pile or pillar foundations shall be prohibited.

F. 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 one foot or more above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed one foot or more above the base flood elevation. The structure shall be watertight below the base flood elevation with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.84.050070(C).
4. Nonresidential structures that are elevated, not floodproofed, ~~must~~shall meet the same standards for space below the lowest floor as described in subsection E of this section.

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 floodproofed to one foot above the base flood elevation will be rated as if floodproofed to the base flood level).

G. Manufactured Homes. All manufactured homes to be placed or substantially improved in ~~zones A, AE or AO~~Areas of special flood hazard shall be placed on a permanent foundation such that the lowest floor of manufactured home is ~~one foot~~18 inches or more above base flood elevation.

~~1. Permanent~~The permanent foundation is shall be resistive to flood velocities and may include concrete slabs, stem walls, and piers that are firmly embedded in the ground. Manufactured homes may be placed on reinforced (not dry-stacked) concrete blocks providing the home is firmly anchored to the ground pursuant to this section. If placed on a stem wall, the structure shall meet the same standards for space below the lowest floor as described in subsection E of this section and the anchoring requirements of Section 17.84.140(A).

H. ~~Travel Trailers and Similar Recreational Vehicles. Travel trailers and similar vehicles that occupy a~~recreational vehicle placed on site is required to either:

1. ~~Be on the SFHA site for a period greater~~fewer than sixty~~180 consecutive days must meet elevation and anchoring standards pursuant to this section or be:~~
2. ~~Be fully licensed and ready for highway ready: (see definitions)-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 additions; or~~
3. Meet the requirements of subsection G above and the elevation and anchoring requirements for manufactured homes.

I. Accessory Structures. Accessory structures such as sheds, small detached garages, etc., to be located in Zone A, AO, Zone AO, or Zone AE and X shaded on map zones, may be exempt from elevation and floodproofing standards with a variance providing the following conditions are met:

1. Accessory structures cannot be more than ~~three~~two hundred square feet in area;
2. Accessory structures shall not be used for human habitation;
3. Accessory structures shall be designed to have low flood potential;
4. Accessory structures shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; ~~and~~
5. Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures; ~~;~~
6. The portions below the Base Flood Elevation shall be constructed with flood-resistant materials;
7. The structures shall be designed to allow the automatic entry of flood waters;
8. Mechanical and utility equipment shall be elevated or floodproofed to or above the Base Flood Elevation;
9. The structures are limited to parking and/or limited storage; and
10. If the structures are located in the floodway, they shall meet the requirements of Section 17.84.180.

17.84.170 Regulations pertaining to fill.

- A. No filling operations of any kind shall be allowed in the floodway.
- B. No fill in floodway fringe areas shall be allowed unless the net effect of excavation and filling operations (on-site) constitutes no positive change in fill volume. An application for fill in the floodway fringe shall require implementation of special permit requirements of the development permit (see Section 17.84.200).
- C. Fill shall be allowed under city fill permit procedures in shaded ~~X-zones~~. Zone X and shall not be regulated by this Chapter.
- D. No structure shall be built nor any excavation grading, nor filling shall be done within the one hundred-year flood plain without first meeting the requirements of this chapter regulating construction, alteration, repair and moving of buildings.

17.84.180 Floodways.

- A. Floodways are established in special flood hazard areas (SFHA) to transport the waters of a one hundred-year flood out of the community as quickly as possible. Encroachments on the floodway generally produce a rise in base flood elevations and contribute to other hydraulic problems. Accordingly, the city prohibits ~~encroachment on designated floodways except for public works projects pursuant to subsection B of this section~~. encroachments, including fill, new construction, parking, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection A above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.
- C. Projects for stream habitat restoration may be permitted in the floodway provided:
 1. The city recognizes project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,
 2. A qualified professional (a Registered Professional Engineer or staff of NRCS, the City, or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that utilities, flood prevention the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 3. No structures, and municipal improvement projects would be impacted by a potential rise in flood elevation; and,
 4. An agreement to monitor the project, correct problems, and ensure that are in the

~~public's best interest must sometimes encroach on designated flood carrying capacity remains unchanged is included as part of the local approval.~~

~~D. New installations of manufactured dwellings in floodways. In compliance with FEMA Regulations, the city will permit floodway encroachments under are prohibited. Manufactured dwellings may only be located in floodways according to one of the following conditions:~~

- ~~1. Hydraulic and hydrologic analysis on the impact on the one hundred-year floodways are completed by the developer; and~~
- ~~2. The city has determined the project to be of public necessity; and~~
- ~~3. If the studies required in subsection (B) (1) of this section indicate an increase in net gain, FEMA has issued a conditional flood insurance rate and floodway revision.~~

~~17.84.190 Special standards for AO zones. A. _____ 1. If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or~~

~~_____ 2. A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:~~

~~_____ a. As required by 44 CFR Chapter 1, Subpart 60.3(d)(3), it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;~~

~~_____ b. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches above the base flood elevation;~~

~~_____ c. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the City; and~~

~~_____ d. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties.~~

17.84.190 Special standards for Zone AO.

A. Zone AO zones are depicted on Flood Insurance Rate Maps (FIRMS). They coincide with areas subject to a one hundred-year flood where depths vary between one and three feet. Zone AO zones are associated with areas where sheet flow is most evident; i.e., where there is no clear channel. Flood depths appear on the FIRM.

B. Proposed construction in a Zone AO zone must shall comply with the General Standards provided in Section 17.84.140, excepting areas specifically covered in this section.

C. New construction and substantial improvements of residential structures in Zone AO zones shall:

1. Have the lowest floor, including basement, elevated one foot above the highest adjacent grade of the building site; or a minimum of

2. Have the lowest floor, including basement, elevated one foot above the flood depth number specified on the FIRM; (at least two feet if no depth number is specified);

3-2. Have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

D. New construction and substantial improvements of non-residential structures in Zone AO zones shall either:

1. Have the lowest floor, including basement, elevated one foot above the highest

adjacent grade of the building site; or

~~2. Have the lowest floor, including basement, a minimum of one foot above the flood depth number; or~~

~~3. Together specified on the FIRM (at least two feet if no depth number is specified); or together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below is watertight; walls shall be substantially impermeable to the passage of water and structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If floodproofing method is used, compliance shall be certified by a registered professional engineer. Such certifications shall be provided to the official as set forth in Section 17.84.070(C).~~

~~4. Compliance with subdivision (3) above, shall be certified by a registered professional engineer;~~

~~5.2. Have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.~~

17.84.200 Special regulations for development in the Scappoose Creek floodway fringe (Zones A, AE, and AO zones).

A. Proposed development or substantial improvement in the Scappoose Creek floodway fringe ~~must~~ shall conform with applicable general and specific standards in Section 17.84.140, and special standards in ~~Zone AO zones~~ (Sections 17.84.190 and 17.84.200);

B. In addition to the application requirements for the specific proposal, the development application shall contain a registered professional engineer's certification that the proposed project will not cause a rise in base flood elevation during a one hundred-year event as it exists on the current FIRM Flood Insurance Rate Map ~~effective August 16, 1988~~ or create additions that would be detrimental to adjacent or neighboring properties.

17.84.210 Storage, placement or stockpiling buoyant or hazardous materials in flood hazard areas (Zones A, AE, and AO, shaded X zones).

A. The transportation of buoyant or hazardous materials (Note: see Section 17.84.015, Definitions) from rising floodwaters contributes to the community's flood hazard. Accordingly, a permit ~~must~~ shall be obtained from the planning commission prior to storage, placement or stockpiling in a flood hazard zone (A, AE, AO). The application shall be processed according to Chapter 17.162.

1. In determining whether or not a permit will be granted to store, place or stockpile buoyant or hazardous materials in a flood hazard area, the planning commission shall consider the following:

- a. The nature of the materials (e.g., buoyancy, toxicity, flammability);
- b. The danger that materials may be swept onto other properties or structures with resulting injury or damage;
- c. The necessity of locating the materials on the particular site, especially in terms of public benefit;
- d. The ability of emergency vehicles to reach the site in times of flooding;
- e. The availability of alternative locations which are less susceptible to flooding;
- f. The applicant's plan for hazard mitigation;
- g. The requirements of development, including Section 17.84.200.

B. The placement, storage or stockpiling of buoyant or hazardous materials in a floodway is prohibited unless it is associated with a short-term public works project. The planning commission must consider the flood potential and establish a time in which the materials must be removed.

17.84.220 Variances to flood damage prevention. A.

A. A variance is a departure or grant of relief from the strict letter of the flood damage

prevention chapter. It is designed for those situations where a proposed action is in keeping with the purpose of the chapter but there are practical difficulties in meeting strict chapter standards. The conditions for granting variances are stringent. When dealing with a flood hazard there is little margin for error.

B. All flood hazard variances are deemed to be a major variance as defined in Chapter 17.134 and shall be so administered and appealed.

C. The planner shall maintain the records of all appeal actions and report any variances to the ~~federal~~ Federal Emergency Management Agency (FEMA) upon request.

D. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the ~~comprehensive plan as historic sites, structures or landmarks, or National Register of Historic Places or the State Inventory of Historic Places~~, without regard to the procedures set forth in this section.

E. Variances shall not be issued within a designated floodway.

F. Variances shall only be issued upon:

a. 1. A showing of good and sufficient cause;

~~b.~~ 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant that outweighs the risk associated with the variance; and

~~c.~~ 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud or a victimization of the public.

G. Variances as interpreted in the National Flood Insurance Program are based on the General Zoning Law Principle that they pertain to a physical piece of 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.

H. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing ~~that than~~ watertight or dry floodproofing, where it can be determined that such action will have low damage potential and complies with all other variance criteria.

I. Any applicant to whom a variance is granted shall be given notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation.

17.84.230 Expiration of approval--Standards for extension of time. ~~A. Approval of a development permit shall be void if:~~

A. Approval of a development permit shall be void under any of the following circumstances:

1. Substantial construction of the approved plan has not been completed within a one-year period; or

2. Construction on the site is a departure from the approved plan--; or

3. If the start of construction, repair, reconstruction, placement or other improvement is not within 180 days of the permit date (see "start of construction" under 17.84.015 Definitions).

B. The planner may, upon written request by the applicant, grant an extension of the approval period not to exceed one year the start of construction for 180 days, provided that:

1. No changes are made on the original plan as approved by the approval authority;

2. The applicant can show intent of initiating construction of the site within the one-year extension period; and

3. There have been no changes to the applicable comprehensive plan policies and the provisions of this title, Flood Insurance Study, or FIRMS on which the approval was based.

C. Notice of the decision shall be provided to the applicant.

17.84.250 Application submission requirements.

A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. A registered professional engineer's certification that the proposed project will not cause a rise in base flood elevation during a one hundred-year event as it exists on the current FIRM Flood Insurance Rate Map ~~effective August 16, 1988~~ or create additions that would be detrimental to adjacent or neighboring properties;

2. One reproducible copy of the development plan(s) and necessary data or narrative which explains how the development conforms to the standards. Sheet size for the development plan(s) and required drawings shall not exceed eighteen inches by twenty-four inches and the scale for all development plans shall be an engineering scale;

3. A list of the names and addresses of all who are property owners of record within two hundred feet of the site.

B. The development plan and narrative may be combined on one map and shall include the following information. ~~Items may be combined on one map.:~~

1. Existing site conditions including vicinity map showing the location of the property in relation to adjacent properties and including parcel boundaries, dimensions and gross area;

2. The location, dimensions and names of all existing and platted streets and other public ways, railroad tracks and crossings, and easements on adjacent property and on the site and proposed streets or other public ways, easements on the site;

3. The location, dimensions and setback distances of all existing structures, improvements, utility and drainage facilities on adjoining properties and existing structures, water, sewer, improvements, utility and drainage facilities to remain on the site; and proposed structures, water, sewer, improvements, utility and drainage facilities on the site;

4. Contour lines at two-foot intervals for slopes from zero to ten percent and five-foot intervals from slopes over ten percent;

5. The drainage patterns and drainage courses on the site and on adjacent lands;

6. Potential natural hazard areas including:

a. Floodplain areas,

b. Areas having a high seasonal water table within zero to twenty-four inches of the surface for three or more weeks of the year,

c. Unstable ground (areas subject to slumping, earth slides or movement). Where the site is subject to landslides or other potential hazard, a soils and engineering geologic study based on the proposed project may be required which shows the area can be made suitable for the proposed development,

d. Areas having a severe soil erosion potential, and

e. Areas having severe weak foundation soils;

7. The location of trees having a six-inch caliper at four feet. Only those trees that will be affected by the proposed development need to be sited accurately. Where the site is heavily wooded, an aerial photograph at the same scale as the site analysis may be required;

8. Identification information, including the name and address of the owner, developer, and project designer, and the scale and north arrow;

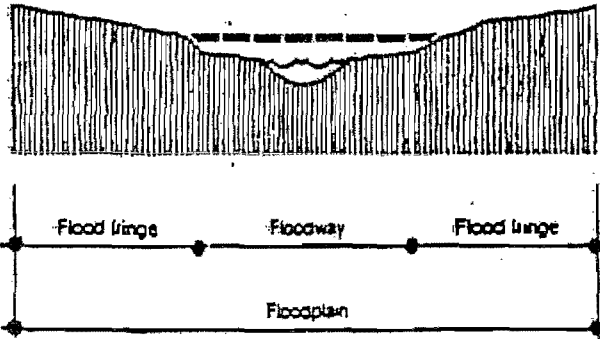
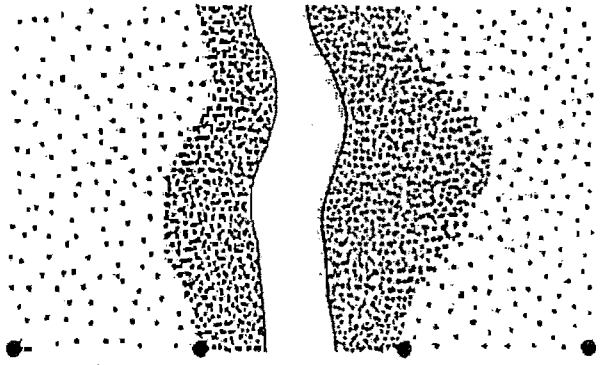
9. A grading and drainage plan at the same scale as the site conditions and including the following:

a. The location and extent to which grading will take place indicating general contour lines, slope ratios, and slope stabilization proposals,

b. A statement from a registered engineer supported by factual data that all drainage facilities are designed in conformance A.P.W.A standards and as reviewed and approved by the public works director.

Floodplain Relationships Diagram

DELETE:



CITY OF SCAPPOOSE

33568 EAST COLUMBIA AVENUE
SCAPPOOSE, OREGON 97056
(503) 543-7146
FAX: (503) 543-7182

Exhibit B of Ordinance No. 809

DCTA1-09

January 25, 2010

Amendments to Floodplain Regulations

CITY OF SCAPPOOSE STAFF REPORT

Request: Approval of amendments to the Development Code regarding the rules and regulations for development within the floodplain.

Applicant: City of Scappoose

EXHIBITS

1. Letter from Jeff and Debbie Smith, dated January 9, 2010

PROPOSAL & RATIONALE

The City of Scappoose proposes to amend Chapter 17.84 of the Development Code (Sensitive Lands--Flooding), which regulates development in the 100-year floodplain to protect human life and health by minimizing losses due to flooding. The proposal and rationale are discussed below.

Flood insurance is not covered by basic home insurance policies. Thanks to the City of Scappoose's participation in the National Flood Insurance Program (NFIP), property owners and renters are eligible to purchase flood insurance at a 15% discount over standard insurance premium rates. Staff from the Federal Emergency Management Agency (FEMA) have reviewed the City's floodplain regulations and determined that several changes are required in order to comply with NFIP standards.

The proposed amendments would bring the City's floodplain regulations up-to-date with NFIP requirements and with best practices contained in the State of Oregon's model flood damage prevention ordinance.

The types of changes proposed for adoption include the following:

- Updates to phrasing and language (including definitions) to match preferred NFIP terminology;
- Clarification on the land use activities that require a Sensitive Lands Development Permit (such as the requirement for accessory structures to obtain a permit or a variance);
- Replacing the diagram depicting the floodway, floodway fringe, and floodplain to make it easier to read; and
- Strengthening the limitations on floodway encroachments.

Amendments to Floodplain Regulations

The consequence of not adopting a revised floodplain ordinance is suspension from the NFIP, which would mean that federally backed flood insurance would no longer be available to property owners in the City.

PUBLIC NOTICE

Notice of the proposed amendments to the Development Code was published in the newspaper on December 30, 2009, January 6, 2010, and January 13, 2010 and mailed to all property owners within the floodplain on December 15, 2009. Staff has received one letter from the public regarding this application (see **Exhibit 1**).

RECOMMENDATION

Based on the applicable statutes, rules, comprehensive plan provisions and implementing ordinances, staff and the Planning Commission recommend adoption of the proposed amendments by City Council.

FINDINGS OF FACT

1. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
3. Membership within the National Flood Insurance Program (NFIP)—and the availability of flood insurance for City residents—requires the City to manage its floodplain in ways that meet or exceed standards set by the Federal Emergency Management Agency (FEMA). Amending the Development Code to clarify and update the rules and procedures for development in the regulated floodplain would reduce the potential damage from flood events and align the City's procedures with the requirements of the NFIP.
4. The following Statewide Planning Goals have been considered by the City of Scappoose in the formation of the language contained within this request:

Citizen Involvement (Goal 1)

Objective: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding:

This application complies with the citizen involvement processes included in the City's acknowledged Comprehensive Plan and Development Code, which is consistent with Statewide Planning Goal 1. The Planning Commission and City Council hold public hearings on the proposal prior to adopting any amendments to the Scappoose Municipal Code. Notice

Amendments to Floodplain Regulations

of the proposal and hearings was published in the local newspaper on December 30, 2009, January 6, 2010, and January 13, 2010 and mailed to all property owners within the floodplain on December 15, 2009. Citizens may submit written or verbal testimony regarding the proposed amendments. This process allows for citizens to communicate their input into the Development Code amendment review conducted by the City. For this application, the Planning Commission's hearing date was January 14, 2010, while the City Council's hearing dates are February 1, 2010 and February 16, 2010. This process complies with the Goal.

Land Use Planning (Goal 2)

Objective: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding:

The proposal to amend the Municipal Code is consistent with the City's regulations regarding legislative land use decisions. Legislative decisions require a Planning Commission recommendation to the City Council, which then makes a decision based on stated findings. The Planning Commission and City Council hearings are open to the public.

The procedural requirements for the proposed Development Code amendment are contained in the Scappoose Municipal Code, which involve assessment of the application's merits, notice to affected parties, and public hearings. The proposal is to update the floodplain development regulations to comply with the standards of the National Flood Insurance Program. Notice of the proposed amendment has been provided to the Oregon Department of Land Conservation and Development (DLCD) as required. DLCD staff has not commented on the proposal. Federal Emergency Management Agency staff has supplied City staff with proposed language for text changes. The City's decision is based on findings of fact. This action complies with Goal 2.

Areas Subject to Natural Disasters and Hazards (Goal 7)

Objective: To protect people and property from natural hazards.

Finding:

The City participates in the National Flood Insurance Program and has adopted the Sensitive Lands--Flooding chapter of the Development Code to minimize public and private losses due to flooding. Among other things, these regulations limit residential density in the floodplain and require all structures to be adequately anchored and elevated above the base flood elevation and waterproofed. The City has close to 160 acres of floodplain and nearly 250 individual parcels that are partially or entirely located within the floodplain.

The proposal to update the floodplain development standards is consistent with avoidance of natural disasters and hazards under Goal 7.

Statewide Planning Goals 3-6 and 8-19 are not applicable to this application.

5. The following Goals and Policies from the Scappoose Comprehensive Plan have been considered by the City of Scappoose in the formation of the language contained within this proposal:

GENERAL GOALS OF THE CITY OF SCAPPOOSE FOR LAND USES

2) Physical characteristics of the area, such as its geographic assets and limitations, its topographic and geologic features, etc., should be recognized where they may represent important land use determinants.

11) Life and property should be protected from natural disasters and hazards.

Finding:

Amending the Development Code to update the floodplain development standards ensures the continued availability of floodplain insurance through the National Flood Insurance Program. The City's existing and updated regulations will minimize additional development in the flood hazard area to protect life and property from damage. The applicable GOALS OF THE CITY OF SCAPPOOSE FOR LAND USES is satisfied.

GOAL FOR HAZARD AREAS

It is the goal of the City of Scappoose to:

1) Protect against all loss of life or property by closely regulating construction, investment and activities in designated hazard areas.

POLICIES FOR HAZARD AREAS

1) Prohibit development on lands within the 100-Year Floodplain, on slopes exceeding 20 percent, on lands with recognized drainage problems, and on lands with soils classified by the SCS as having severe building constraints, unless a showing that design and construction techniques can eliminate potential loss of life and property, specifically:

A) All development within the 100-Year Floodplain shall conform to the standards set by HUD, and the proposal for development shall be approved by the City Engineer.

B) All development plans on slopes greater than 20 percent shall be reviewed and approved by the Superintendent of Public Works.

C) All development plans on lands with recognized drainage problems shall be reviewed and approved by the Superintendent of Public Works.

D) All development plans on lands with suspect soils shall be submitted with a report from a soils geologist attesting to the safety of the plans, and then shall be reviewed and approved by the City Engineer.

For development on such lands, the City may impose whatever conditions it deems necessary to protect life and property.

2) Revise the Comprehensive Plan and Plan Map to reflect flood danger areas when the HUD study on local floodplains is completed or updated.

3) *Attempt to reduce the flooding along Scappoose Creek; possible means include: cleaning and dredging, creating banks, widening the bed, and straightening the path. Implementation of any improvements shall be done in conjunction with the Department of Fish and Wildlife.*

Finding:

Amending the Development Code to update the floodplain development regulations in accordance with NFIP requirements provides additional clarity on review procedures while furthering the floodplain protection measures.

The applicable GOAL AND POLICIES FOR HAZARD AREAS is satisfied.

6. The following sections of Title 17 of the Scappoose Municipal Code (Scappoose Development Code) Plan have been considered by the City of Scappoose in the formation of the language contained within this proposal:

Chapter 17.84 SENSITIVE LANDS--FLOODING

17.84.010 Purpose. A. 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 flooding. In general, the city's flood hazard chapter is designed:

1. *To protect human life and health;*
2. *To minimize expenditures of public money and costly flood control projects;*
3. *To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
4. *To minimize prolonged business interruptions;*
5. *To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard.*

B. The city seeks to minimize or mitigate flood hazards by:

1. *Implementing FEMA floodplain requirements for participation in the National Flood Insurance Program;*

Finding:

The purpose of the City's floodplain regulations remains unchanged, with the overall goals outlined above. The City will continue to promote regulations that minimize the impacts of periodic flooding. The City is required to update the regulations to comply with the standards of the National Flood Insurance Program. Section 17.84.010 is satisfied.

Chapter 17.160 PROCEDURES FOR DECISION MAKING—LEGISLATIVE

17.160.120 The standards for the decision. A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:

- 1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;*
- 2. Any federal or state statutes or rules found applicable;*
- 3. The applicable comprehensive plan policies and map; and*
- 4. The applicable provisions of the implementing ordinances.*

B. Consideration may also be given to:

Proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

Finding:

The Planning Commission's recommendations and the City Council's decisions are based on applicable statewide planning goals and guidelines, federal and state statutes and rules, Comprehensive Plan policies, and provisions of the Scappoose Municipal Code, as detailed in the findings. The City has publicized the proposed amendments and held hearings in accordance with applicable laws. The City is adopting floodplain regulation amendments required by the Federal Emergency Management Agency in order to maintain the City's participation in the National Flood Insurance Program, which allows property owners to obtain flood insurance. Section 17.160.120 is satisfied.

1/9/10

We strongly oppose the change of any amendments to the city's flood plain. We have lived along the creek for 13 years. During that thirteen years we have lost several feet of property to the creek. We have talked to and had the watershed council out to our house on several occasions. They have told us that our property is one of the worst on the creek. We also have a stormwater drain that runs from the streets and through our property that drains directly into the creek. The city has come out on several occasions to fill in rock because the force of the water is eroding our property. They put a plastic sleeve on it, but the force is strong enough that it sometimes shoots that off.

We have major erosion problems. We have planted tree after tree to have them cut down by the beavers. If we are unable to put rock or plant trees in the creek area, or to do anything to save our property from the erosion, eventually it will erode right up to our deck and house. We did not build this house here, the city let the

builder, build on property that he probably should not have.

During the summer we have a beautiful back yard but also a dangerous back yard. We are undercut from erosion. We have some drop offs that are about 15 feet deep. We can't just let our grandchildren play out there without being with them for fear that a piece of land will give way along the creek.

If you take our right away as homeowners on our own property eventually we will be looking out our window to the creek running right next to us. Or worse our house will be in the creek. We think about selling and moving away from the creek but we don't know if we can even sell our house because of the erosion. Please do not take our rights away to save our house and land if need be.

Thank You,

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