



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

05/04/2011

TO: Subscribers to Notice of Adopted Plan

or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Central Point Plan Amendment

DLCD File Number 006-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Tuesday, May 17, 2011

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

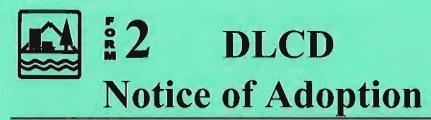
DLCD. As a result, your appeal deadline may be earlier than the above date specified. <u>NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.</u>

Cc: Stephanie Holtey, City of Central Point

Gloria Gardiner, DLCD Urban Planning Specialist

Chris Shirley, FEMA Specialist

Ed Moore, DLCD Regional Representative



DLCD File No. 006-11 (18653) [16628]

This Form 2 must be mailed to DLCD within <u>5-Working Davs after the Final</u>

Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

| D | ☐ In person ☐ electronic ☐ mailed |
|---------------|---|
| ATE | DEPT OF |
| S | APR 29 2011 |
| A IVI P | LAND CONSERVATION AND DEVELOPMENT For Office Use Only |

| and all other requirements of ORS 197.615 and OAR 660-01 | 8-000 |
|--|--|
| Jurisdiction: City of Central Point Date of Adoption: 3/24/2011 | Local file number: 11013 Date Mailed: 4/26/2011 |
| Was a Notice of Proposed Amendment (Form 1) mailed | |
| Comprehensive Plan Text Amendment | Comprehensive Plan Map Amendment |
| | ☐ Zoning Map Amendment |
| ☐ New Land Use Regulation | Other: |
| Summarize the adopted amendment. Do not use ted | hnical terms. Do not write "See Attached". |
| Revision to the Flood Damage Prevention ordinance to ma Agency (FEMA) Flood Insurance Rate Map (FIRM) panel ensure continued compliance with the National Flood Insu provided in the State Model Ordinance, construction stand reference, substantial damage/improvement guidance, and | s for Central Point effective by May 3, 2011 to rance Program. Amendments incorporate language ards, including drainage provisions, stream setback |
| | |
| Does the Adoption differ from proposal? Yes, Please | explain below: |
| Additional language was provided to clarify floodplain deverteria and some higher regulatory standards were added. damage/improvement definitions, floodway exclusion of a site improvements and subdivisions. | These include cumulative substantial |
| | |
| Plan Map Changed from: N/A | to: N/A |
| Zone Map Changed from: N/A | to: N/A |
| Location: N/A | Acres Involved: 0 |
| Specify Density: Previous: N/A | New: N/A |
| Applicable statewide planning goals: | |
| 1 2 3 4 5 6 7 8 9 10 11 □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ | 12 13 14 15 16 17 18 19 |

| Did DLCD receive a Notice of Proposed Amendm | ent | | |
|--|--------------------------|---------------|--------|
| 45-days prior to first evidentiary hearing? | ⊠ Yes | □ No | |
| If no, do the statewide planning goals apply? | ☐ Yes | | |
| If no, did Emergency Circumstances require imme | ediate adoption? | ☐ Yes | □ No |
| DLCD file No | | al Districts: | |
| Local Contact: Stephanie Holtey, CFM | Phone: (541) 664-7602 | Extension | n: 244 |
| Address: 140 South 3 rd Street | Fax Number: 541-664-6384 | | |
| City: Central Point Zip: 97502- stephanie.holtey@centralpointoregon | E-mail Address: | | |

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working 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).
- When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
- 3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
- Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
- 5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
- 6. In addition to sending the Form 2 Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
- Submit one complete paper copy via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
- 8. Please mail the adopted amendment packet to:

ATTENTION: PLAN AMENDMENT SPECIALIST DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT 635 CAPITOL STREET NE, SUITE 150 SALEM, OREGON 97301-2540

ORDINANCE NO. 1947

AN ORDINANCE AMENDING CHAPTER 8.24, FLOOD DAMAGE PREVENTION, OF THE CENTRAL POINT MUNICIPAL CODE TO COMPLY WITH THE NATIONAL FLOOD INSURANCE PROGRAM, ADOPT THE REVISED STATE MODEL CODE AND IMPROVE COORDINATION OF ALL LOCAL FLOOD-RELATED REGULATIONS

Recitals:

- A. The Federal Emergency Management Agency (FEMA) is releasing a new Flood Insurance Rate Map (FIRM) for Jackson County, including Central Point, which will take effect on May 3, 2011. Significant revisions to the mapped flood hazard areas are shown on the new FIRM, which affect flood risk, flood insurance requirements, and applicability of Chapter 8.24, Flood Damage Prevention regulations.
- B. To maintain compliance with the National Flood Insurance Program (NFIP), which makes Federal flood insurance available in the community, the City is required to amend its floodplain management ordinance to reflect the changes to the newly adopted FIRM. Revisions must include, at a minimum, regulations that meet the standards set forth in Paragraph 60,3(d) of the Code of Federal Regulations. Enactment of higher regulatory standards are encouraged and rewarded through participation in the Community Rating System (CRS), which provides automatic discounts on insurance premiums in participating communities that proactively manage floodplains to reduce flood losses.
- C. The proposed code amendments meet the minimum NFIP requirements provided in 44 CFR 60.3(d), State requirements and some additional higher regulatory standards to reduce flood losses in the community and lower flood insurance premiums through the CRS. The City currently is a class 7 community with a total of 1,744 points. To achieve a class 6 status, the city needs a minimum of 256 additional points. Based on staff's analysis, the proposed code amendments would likely provide the city with an additional points needed to earn an additional 5% discount on high risk flood insurance premiums, saving the community an estimated \$38,797.
- D. Pursuant to the requirements set forth in CPMC Section 17.075, the City has conducted the following duly advertised public hearings to consider proposed amendments:
 - 1. Planning Commission hearing on February 1, 2011.
 - 2. City Council hearing on March 10, 2011.
- E At the public hearing on March 10, 2011, the City Council reviewed the staff report, received the findings of the Central Point Planning Commission, and received public testimony from all interested persons. Based upon all of the information received, the City Council adopts the findings and conclusions set forth in the staff report dated March 10, 2011, and based upon the same, the City Council finds that there is sufficient public need and justification for the proposed text amendments.
- F. Words lined through in the following ordinance are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

Section 1. Chapter 8.24 of the Central Point Municipal Code is amended in its entirely to read:

Chapter 8.24 FLOOD DAMAGE PREVENTION AND HAZARD MITIGATION*

| Sections: | |
|-----------------|--|
| <u>8.24.010</u> | Statutory aAuthorization. |
| <u>8.24.020</u> | Findings of #Fact. |
| <u>8.24.030</u> | Statement of pPurpose. |
| <u>8.24.040</u> | Methods of rReducing fFlood ILosses. |
| <u>8.24.050</u> | Definitions. |
| 8.24.060 | Application. Lands to Which This Ordinance Applies |
| <u>8.24.070</u> | Basis for eEstablishing the aAreas of eSpecial fFlood hHazard. |
| <u>8.24.080</u> | Penalties for noncompliance. Coordination with State of Oregon Building |
| | codes Division Specialty Codes |
| <u>8.24.090</u> | Abrogation and greater restrictions. Establishment of Floodplain |
| | Development Permit |
| <u>8.24.100</u> | Interpretation |
| <u>8.24.110</u> | Warning and dDisclaimer of Liability. |
| <u>8.24.120</u> | Establishment of development permit. Designation of Floodplain |
| | Administrator |
| <u>8.24.130</u> | Application for development permit. Duties of the Floodplain Administrator |
| <u>8.24.140</u> | Designation of the city administrator or his designee. Permit Procedures |
| <u>8.24.150</u> | Duties and responsibilities of the city administrator or his designee. Substantial |
| ! | Damage and Substantial Improvement Determination |
| <u>8.24.160</u> | Variance procedure. Watercourse Alterations |
| <u>8.24.170</u> | General construction-standards. Requirement to Submit New Technical Data |
| <u>8.24,180</u> | Specific standards for areas of special flood hazard. Non-Conversion of |
| I | Enclosed Areas Below the Lowest Floor |
| <u>8.24.190</u> | Specific additional standards for floodways. Site Improvements and |
| | Subdivisions |
| <u>8.24.200</u> | Specific additional standards for shallow flooding areas. Development in |
| | Regulatory Floodways |
| <u>8.24.210</u> | Development in Zones with Base Flood Elevations but No Regulatory |
| - | Flood <u>way</u> |
| 8.24.220 | Development in Zones without Base Flood Elevations |

8.24.230 Stream Setback Requirement

8.24.240 Drainage Provisions

8.24.250 Floodplain Development Standards for Construction

8.24,260 Other Development Standards

8.24,270 Interpretations and Variance

8.24.280 Penalties for Non-Compliance

8.24.290 Severability

8.24.300 Abrogation and Greater Restrictions

8.24.010 Statutory aAuthorization

The Legislature of the state has in ORS-215.515 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city ordains and sets out the provisions of this chapter. (Ord. 1767-§1(part), 1997).

8.24.020 Findings of #Fact

- A. 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.
- B. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, floodproofed, or otherwise unprotected from flood damages, and the cumulative effect of obstructions in areas of special flood hazards areas, which increases in 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.
- C. The City of Central Point has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management. (Ord. 1767 §1(part), 1997).

8.24.030 Statement of pPurpose.

^{*} Prior ordinance history: Ords. 1585, 1716 and 1749.

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

- A. Protect human life and health;
- B. Minimize expenditure of public money on costly flood damage and control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions unnecessary disruption of commerce, access and public service during times of flood;
- E. Minimize damage to public facilities and utilities such as water, sanitary sewer, storm drain and gas mains; electric, telephone, and television cable lines; and streets, bridges, and other appurtenances which are located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood-blight areas flood-prone areas;
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- I. Manage the alteration of flood hazard areas, stream channels and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain. (Ord. 1767 §1(part), 1997).

8.24.040 Methods of FReducing fFlood Losses

In order to accomplish its purposes, this chapter includes methods and provisions fer to:

- 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 er-velocities, or erosion;
- B. Requiring development_that uses is vulnerable to floods, including facilities which serve such uses structures and facilities necessary for the general health,

- safety and welfare of citizens to be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; Control filling, grading, dredging and other development which may increase or modify flood damage or erosion;
- D Controlling filling, grading, dredging and other development which may increase or modify flood damage; and Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
- E. Preventing or regulating the construction of imprevements or other barriers which will unnaturally divert fleed waters or may increase fleed hazards in other areas.

 Preserve and restore natural floodplains, stream channels and natural protective barriers which carry and store flood waters; and,
- F. Coordinate with and supplement provisions of State of Oregon Specialty
 Codes Enforced by the State of Oregon Building Codes Division. (Ord. 1767
 §1(part), 1997).

8.24.050 Definitions

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

"Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance. "Accessory Structure" means a structure on the same or adjacent parcel as a principal structure, the use of which is incidental and subordinate to the principal structure.

"Area of shallow flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FM) within the "area of special flood hazard." Area of shallow flooding are areas where the base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO zones are characterized as having sheet flow, and AH zones indicates pending. "Appeal" means a request for review of the Floodplain Administrator's interpretation of provisions of this ordinance.

"Area of special flood hazard" means the land in the flood plain within a community subject to a ene percent or greater chance of flooding in any given year, as designated by the Federal Emergency Management Agency (FEMA); or any additional area, not designated by FEMA, but suspected of being subject to a one percent or greater chance of flooding in any given year, as designated by the city administrator or his designee. "Area of Shallow Flooding" means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM) with base flood depths ranging from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. AO Zones are characterized as having sheet flow, and AH Zones indicate ponding.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "one-hundred-year flood." "Area of Special Flood Hazard" means the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. Zones designating areas of special flood hazard on Flood Insurance Rate Maps always include the letters A or V. Also known as the Special Flood Hazard Area (SFHA).

"Basement" means any area of a building having its floor subgrade (below ground level) on all sides. "Base Flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral leading forces, without causing damage to the elevated portion of the building or supporting foundation system. "Base Flood Elevation (BFE)" means the water surface elevation during the base flood in relation to a specified datum. The BFE is depicted on the Flood Insurance Rate Map (FIRM) to the nearest foot (1.0) and in the Flood Insurance Study (FIS) to the nearest tenth (0.1) of a foot.

"City" means the city of Central Point. "Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

"Coastal high hazard area" means an area of special flood hazard extending from offshere to the inland limit of a primary-frontal dune along an open coast and any other area subject to high velocity wave action from storms or sciemic sources. "Below-grade Crawlspace" means an enclosed area below the BFE in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point. Below-grade crawlspaces are allowed subject to the conditions found in FEMA Technical Bulletin 11-01 and in Section 8.24.220(E)(3).

"Critical facility" means a facility for which even a slight chance of flooding might be too great.

Critical facilities include, but are not limited to: schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste. "City" means the city of Central Point.

"Conditional Letter of Map Revision (CLOMR)" means a formal review and comment by FEMA as to whether a proposed project complies with minimum National Flood Insurance Program (NFIP) floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps or Flood Insurance Studies, nor does a CLOMR constitute a formal project approval by the City.

"Development" means any manmade 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 located within the area of special flood hazard. "Critical Facility" or "Essential facility" means a facility that is critical for the health and welfare of the population and is especially important following hazard events. "Critical facilities" or "essential facilities" include:

- 1. Hospitals and other medical facilities having surgery and emergency treatment areas;
- 2. Fire and police stations;
- 3. Tanks or other structures containing, housing or supporting water or firesuppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
- 4. Emergency vehicle shelters and garages;
- Structures and equipment in emergency preparedness centers;
- 6. Standby power generating equipment for essential facilities; and,
- 7. Structures and equipment in government communication centers and other facilities required for emergency response.

"Elevated building" means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. "Datum" means the vertical datum. The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical Datum of

1929 (NGVD 1929). The vertical datum currently adopted by the Federal government as a basis for measure heights is the North American Vertical Datum of 1988 (NAVD 1988).

"Existing manufactured home park or subdivision" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted flood damage prevention and hazard mitigation requirements codified in this chapter. "Development" means any manmade 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 and materials located within the area of special flood hazard. Exemptions to the definition of development, for the purpose of administering this ordinance, include:

- 1. Signs, markets, aids, etc. placed by a public agency to serve the public; and,
- 2. Residential gardens provided that they do not result in unauthorized, substantial alteration of topography; and provided that gardening methods do not include the use or application of pesticides, herbicides, fertilizers or other toxic materials.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pade), which are completed after the effective date of adopted flood damage prevention and hazard mitigation requirements codified in this chapter. "DFIRM" means Digital Flood Insurance Rate Map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

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

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

"Elevated Building" means, for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

"Flood insurance rate map (FIRM)" means the official map on which FEMA has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. "Encroachment" means the advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a floodway, which may impede or after the flow capacity of a floodplain.

"Flood insurance study" means the official report provided by FEMA that includes flood profiles, the flood boundary floodway map, and the water surface elevations of the base flood. "Essential Facility." See "Critical Facility."

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

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure (used solely for parking of vehicles, building access, or storage) in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non elevation design requirements of this chapter found at Section 8.24.180(A)(2) of this chapter. "Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

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

"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 when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." "Flood Insurance Rate Map (FIRM)" means the official map of a community, issued by FEMA delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. "Flood Insurance Study (FIS)" means the official report provided by FEMA evaluating flood hazards and containing flood profiles, regulatory Floodway boundaries and water surface elevations of the base flood.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of the adopted flood damage prevention and hazard mitigation requirements codified in this chapter. "Floodway" or "Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the adopted flood damage prevention and hazard mitigation requirements codified in this chapter. "Historic Structure" means a structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- 4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or,
 - b. Directly by the Secretary of the Interior in states without approved programs.

"Recreational vehicle" means a vehicle which is:

Built on a single chassis;

- Four hundred square feet or less when measured at the largest herizontal projection;
- 3. Designed to be-self-propelled or permanently towable by a light duty truck;
- 4. Not primarily designed for use as a permanent dwelling, but as temperary living quarters for recreational, camping, travel, or seasonal use. "Letter of Map Change (LOMC)" means an official FEMA determination by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:
- Letter of Map Amendment (LOMA) means a revision based on technical data showing that a property was inadvertently included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property or structure is not located in a special flood hazard area;
- 2. Letter of Map Revision (LOMR) means a revision based on technical data showing, due to human-made alterations, changes to flood zones, flood elevations, or floodplain and regulatory floodway delineations. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the BFE and is excluded from the special flood hazard area.

"Start of construction" means the date the development permit (which includes development, public works, and building permits) was issued, provided the actual start of construction, repair, reconstruction, placement or other substantial improvement was within one hundred eighty days of the permit issuance date. The actual start of construction 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 or blocks. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; excavation for a basement, footings, piors, or foundations; the erection of temporary forms; or the installation of the property or accessory buildings (i.e., garages or sheds) not occupied as dwelling units or which are 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. "Lowest Floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure (used solely for parking of vehicles, building access or storage) in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure

is not built so as to render the structure in violation of the applicable non-elevation design requirements found in Section 8.24.250(B)(2) and (3) of this chapter.

"Structure" means a walled and reefed building including a gas or liquid storage tank that is principally above ground. "Manufactured Dwelling" or "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 when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred. "NFIP" means National Flood Insurance Program.

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

- 1. 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. The term does not, however, include either:

e. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

d.—Any alteration of a structure listed on the National Register of Historic Places or the Oregon State Inventory of Historic Places. "New Construction" means structures for which the "start of construction" commenced on or after the effective date of the adopted flood damage prevention requirements codified in this chapter, including subsequent substantial improvements to the structure.

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. "Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage

structures...and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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

- 1. Built on a single chassis;
- 2. Four hundred square feet or less when measured a the largest horizontal projection;
- 3. Designed to be self-propelled or permanently towable by a light duty truck; and,
- 4. Not primarily designed for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

"Start of Construction" means the date the development permit (which includes development, public works and building permits) was issued, provided the actual start of construction, repair, reconstruction, placement or other substantial improvement was within one year of the permit issuance date. The actual start of construction 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 or blocks. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; the erection of temporary forms; or the installation of the property or accessory buildings (i.e. garages or sheds) not occupied as dwelling units or which are 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.

"Structure" means a walled and roofed building, manufactured dwelling, a modular or temporary building, or liquid storage tank that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure on at least two separate occasions during a 10-year period whereby the cost of restoring the structure for which the cost of repairs to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred. "Substantial Improvement" means any repair, construction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure within the course of a 10-year period either:

- 1. Before the improvement or repair is started; or
- 2. If the structure has been damaged and is being restored, before the damage occurred,

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- b. Any alteration of a structure listed on the National Register of Historic Places or the Oregon State Inventory of Historic Places.

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

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without evidence of compliance, such as a FEMA Elevation Certificate, Floodproofing Certificate or other certification, is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a lake river, creek, stream, wash, arroyo, channel or other topographic feature in, on, through, or over which water flows at least periodically.

"Water Dependent Use" means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term does not include long-term storage, manufacture, sales or service facilities.

"Water Surface Elevation" means the height, in relation to a specified datum of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. 1767 §1(part), 1997).

8.24.060 Application: Lands to Which This Ordinance Applies

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the eity City. Nothing in this ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning regulations or Specialty Codes. (Ord. 1767 §1(part), 1997).

8.24.070 Basis for eEstablishing the aAreas of sSpecial fFlood hHazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for The City of Central Point Jackson County, Oregon and Incorporated Areas, dated January 19, 1982 May 3, 2011" (Flood Insurance Study), or subsequent amendments thereto, with accompanying flood insurance maps, are adopted by reference and declared to be a part of this chapter with accompanying Flood Insurance Rate Maps (FIRM) and Digital Flood Insurance Rate Maps (DFIRM) are adopted by reference and declared a part of this ordinance. The Flood Insurance Study FIS and FIRM are is on file at Central Point City Hall, located at 140 South 3rd Street, Central Point, Oregon.

The eity floodplain administrator or designee may also identify additional areas of special flood hazard which are not identified by FEMA, but have been identified as being areas of special flood hazard due to their proximity to named or unnamed ditches, creeks, streams, rivers, or channels; or that have been identified as areas of special flood hazard based on historical events or occurrences. (Ord. 1767 §1(part), 1997).

8.24.080 Penalties for noncompliance Coordination with the State of Oregon Building Codes Division Specialty Codes

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. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be subject to the general penalty, and in addition shall pay all costs and expenses involved with the case. Nothing contained in this chapter shall prevent city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 1767 §1(part), 1997).

Pursuant to the requirement established in ORS Chapter 455 that the City of Central Point administer and enforce the State of Oregon Specialty Codes, the City Council of Central Point does hereby acknowledge that the Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in areas of special flood hazard. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Specialty Codes.

8.24.090 Abrogation and greater restrictions. Establishment of Floodplain Development Permit

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1767 §1(part), 1997).

- A. A Floodplain Development Permit shall be required prior to initiating development activities in any special flood hazard areas as established in Section 8.24.070. The permit shall be for all improvements or structures (including manufactured homes and fences, as set forth in Section 8.24.050 and 8.24.250 and 8.24.260 of this chapter), and for all development including fill and other activities, also set forth in Section 8.24.260 of this chapter. Floodplain Development Permits shall be subject to the review procedures based on the type of development activity proposed, as set forth below:
 - 1. Section 17.05.200, Type I review procedure (administrative) applies to floodplain development projects that meet the following criteria:
 - a. Located outside a regulatory floodway;
 - b. Located outside the special stream setback area;
 - Does not require a Conditional Letter of Map Revision (CLOMR)
 or Letter of Map Revision pursuant to Section 8.24.170(A) and
 (B); and,
 - d. Project is a bridge or culvert replacement deemed necessary by the floodplain administrator or designee to address immediate concerns for life, safety, health and/or the general welfare of the community provided that the following conditions are met:
 - i. The applicant is responsible for providing evidence necessary to support determination of public emergency;
 - ii. The bridge or culvert replacement is located along a similar or parallel alignment and contributes no additional material to the floodway; and,

- iii. The bridge or culvert replacement project is consistent with any applicable hazard mitigation project actions identified in the Central Point Hazard Mitigation Plan.
- iv. The applicant provides certification of floodplain impacts and encroachment analysis for any permanent bridge or culvert placement. at the time of application and include:
 - (a) Impacts to the BFE;
 - (b) Impacts to the base floodplain boundaries; and,
 - (c) Identification of any insurable structures within the base floodplain.
- 2. Section 17.05.300, Type II review procedure (administrative) applies to floodplain development projects that meet the following criteria:
 - a. Located outside the regulatory floodway:
 - b. Located within the special stream setback area; and
 - c. Does not require a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) pursuant to Section
 8.24.170(A) and (B);
 - d. Any bank stabilization project that utilizes vegetative planting techniques and contributes no fill or material other than vegetation to the stream channel, stream bank or surrounding area; and,
- 3. Section 17.05.400, Type III review procedure (quasi-judicial) applies to floodplain development projects that meet the following criteria:
 - a. Located in the regulatory floodway;
 - b. Increases BFE more than one foot;
 - c. Causes any rise in the regulatory floodway;
 - d. Bridge and culvert replacement projects that are not deemed to be a public emergency as provided in 8.24.090(A)(1)(d);

- e. Any bank stabilization that uses methods other than vegetative plantings to achieve shoreline stabilization and safety:
- f. Requires a Conditional Letter of Map Revision (CLOMR) and/or Letter of Map Revision (LOMR) pursuant to Section 8.24.170(A) and (B); and,
- g. Requests a variance to the provisions of this chapter.

8.24.100 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 federal, state, or local laws, ordinances, rules, or statutes, **including the state building code**. (Ord. 1767 §1(part), 1997).

8.24.110 Warning and dDisclaimer 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 manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under this chapter. (Ord. 1767 §1(part), 1997).

8.24.120 Establishment of development permit. Designation of the Local Floodplain Administrator

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 8.24.070 of this chapter. The permit shall be for all improvements or structures (including manufactured homes, as set forth in Section 8.24.050 of this chapter), and for all development including fill and other activities, also as set forth in Section 8.24.050 of this chapter. (Ord. 1767-§1(part), 1997). The City Administrator or designee is hereby appointed as the Floodplain Administrator who is responsible for

administering and implementing the provisions of this ordinance. (Ord. 1767 §1(part), 1997).

8.24.130 Application for development-permit. Duties and Responsibilities of the Floodplain Administrator

Application for a development permit shall be made on forms furnished by the city administrator or his designee and may include, but not be limited to, plans in duplicate (drawn to scale) showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

A. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures and all public and private improvements (i.e., streets and appurtenances, utilities, drainage facilities, etc.);

B. Elevation in relation to mean-sea level to which any structure or improvement has been fleedproofed;

C. Written certification by an Oregon registered-professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria stated in Section 8,24,180(B) of this chapter; and

D. Description of the extent to which a watercourse will be altered or relocated as a result of the proposed development. (Ord. 1767 §1(part), 1997).

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

- A. Review all proposed development to determine whether it will be located in areas of special flood hazard or other flood-prone areas;
- B. Review applications for new development or modifications of any existing development located in areas of special flood hazard for compliance with the requirements of this ordinance;
- C. Interpret flood hazard area boundaries, provide available flood hazard information, and provide BFEs where they exist;
- D. Review proposed development to assure that necessary permits have been obtained from government agencies from which approval is required by Federal or state law. Copies of such permits shall be maintained on file;

- E. Review all development permit applications to determine if the proposed development is located in the regulatory floodway and, if so, ensure that the encroachment standards of Section 8.24.200 are met:
- F. When BFE data or floodway data have not been established pursuant to Section 8.24.070, then the Floodplain Administrator shall obtain, review and reasonably utilize any BFE and floodway data available from a Federal, state or other authoritative source in order to administer the provisions of this ordinance;
- G. When BFEs or other engineering data are not available from an authoritative source, the Floodplain Administrator shall require BFEs to be developed in accordance with Section 8.24.190(E) or take into account the flood hazards, to the extent they are know, to determine whether a proposed building site or subdivision will be reasonably safe from flooding;
- H. Where a determination is needed of the exact location of boundaries of the areas of special flood hazard, such as when there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary may appeal the determination subject to the process identified in Section 8.24.300;
- Issue floodplain development permits when the provisions of this ordinance have been met, or deny the same in the event of non-compliance;
- J. Coordinate with the Building Official to assure that the applications for building permits comply with the requirements of this ordinance;
- K. Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, of the lowest floor level, including basement of all new construction or substantially improved buildings and structures;
- L. Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, to which any new or substantially improved non-residential buildings or structures have been floodproofed. When floodproofing criteria are utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect:

- M. Ensure that all records pertaining to the provisions of this ordinance are permanently maintained in the office of the Floodplain Administrator and are available for public inspection;
- N. Make periodic inspections of areas of special flood hazard to establish that development activities are being performed in compliance with this ordinance, and to verify that existing buildings and structures maintain compliance with this ordinance;
- O. Coordinate with the Building Official to inspect areas where buildings and structures in areas of special flood hazard have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitations, demolition, relocation or reconstruction of the building or structure; and,
- P. Make substantial improvement and substantial damage determinations for all structures located in areas of special flood hazard.

8.24.140 Designation of the city administrator or his designee. Permit Procedures
The city administrator or his designee is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions, and to administer and implement the other requirements of this chapter. (Ord. 1767 §1(part), 1997).
Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by the Administrator or designee prior to starting development activities. Specifically, the following information is required:

A. Application Stage

- 1. Plans in duplicate, drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities;
- 2. Delineation of special flood hazard areas, regulatory floodway boundaries, including BFEs, or flood depth in AO or AH zones where available:
- 3. For all proposed structures, elevation in relation to the highest adjacent grade and BFE or flood depth in AO or AH zones, of the:
 - a. Lowest enclosed area, including crawlspace or basement floor;

- b. Top of the proposed garage slab, if any; and,
- c. Next highest floor.
- 4. Locations and sizes of all flood openings in any proposed building;
- 5. Elevation to which any non-residential structure will be floodproofed;
- 6. Certification from a registered professional engineer or architect that any proposed non-residential floodproofed structure will meet the floodproofing criteria of the NFIP and Specialty Codes;
- 7. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;
- 8. Proof that application has been made for necessary permits from other governmental agencies from which approval is required by Federal or state law; and,
- Copies of documentation associated with a CLOMR received from FEMA required pursuant to Section 8.24.170.

B. Construction Stage

- 1. For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or floodproofing level immediately after the lowest floor or floodproofing is placed and prior to further vertical construction;
- 2. Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

C. Certificate of Occupancy

 In addition to the requirements of the building codes pertaining to certificate of occupancy, prior to the final inspection, the owner or authorized agent shall submit the following documentation that has been prepared and sealed by a registered surveyor or engineer for review and approval by the Floodplain Administrator:

- a. For elevated buildings and structures in special flood hazard areas (A zones), a completed FEMA Elevation Certificate (FEMA Form 81-31) that includes the as-built elevation of the lowest floor, including basement or, where no BFE is available, the height above the highest adjacent grade of the lowest floor; and,
- b. For buildings and structures that have been floodproofed, a FEMA Floodproofing Certificate (FEMA Form 81-65) that includes the elevation to which the building or structure was floodproofed.
- 2. Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a certificate of occupancy until such deficiencies are corrected.
- D. Expiration of Floodplain Development Permit
 - A floodplain development permit shall expire 180 days after date of issuance unless the permitted activity has commenced as provided in Section 8.243.050(AA) and thereafter is pursued until completion;
 - 2. The Floodplain Administrator or designee shall, upon written request by the applicant or authorized agent and payment of the required fee, grant a written one 180 day extension of the approval period with the exception that projects with extenuating circumstances may be granted additional extensions as needed, and provided that:
 - a. No changes are made to the original application as approved by the City;
 - b. There have been no changes in the Code provisions on which the approval was based. In the case where the plan conflictions with a Code provision, the extension shall be either:
 - i. Denied; or,
 - ii. Re-reviewed at the discretion of the floodplain administrator or designee;
 - c. The extension request is made prior to the expiration date of the original approved plan; and,
 - d. The application shall be void if the original application expires and no extension has been granted.

8.24.150 Duties and responsibilities of the city administrator or his designee. Substantial Damage and Substantial Improvement Determination

Duties of the city administrator or his designee shall include, but not be limited to the following:

A. Permit Review.

- 1. Review all development permits submitted 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 regulatory 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 encreachment provisions of Section 8.24.190(B) of this chapter are met.
- B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section <u>8.24.070</u> of this chapter, Basis for establishing the areas of special flood hazard, the city administrator or his designee shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or local regulatory agency, or other suitable source (i.e., city approved consultants, scientists, etc., retained by and at the expense of the applicant), in order to administer Sections <u>8.24.170</u>, <u>8.24.180</u>, <u>8.24.190</u>, and 8.24.200 of this chapter.

C. Information to be Obtained and Maintained.

- 1. Where base flood elevation data is provided through the Hood Insurance Study or as required in Section 8.24.150(B) of this chapter, the applicant shall provide to the city the actual elevation (in relation to mean sea level, as established by the applicant's Oregon licensed surveyor or registered professional engineer, utilizing a city-approved vertical datum benchmark) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- 2. For all-new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean-sea level), as provided by the applicant and as certified by the applicant's Oregon licensed curveyor or registered professional engineer, utilizing a city-approved vertical datum; and

- b. Maintain the floodproofing certifications required in Section 8.24.130(C) of this chapter.
- Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

- 1. Notify adjacent communities, the Oregon Division of State Lands, Oregon Department of Land Conservation and Development, and the Army Corp of Engineers prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- 2. Require that provisions and maintenance are provided within the altered or relocated portion of such watercourse so that the flood carrying capacity is not diminished, as certified in writing by an Oregon registered professional engineer and as approved by the city administrator or his designee.
- E. Interpretation of FIRM Boundaries. Make interpretations where needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 8.24.160 of this chapter. (Ord. 1767 §1(part), 1997). For application for permits to improve buildings and structures, including additions, repairs, renovations and alterations, the floodplain administrator shall:
 - A. Estimate the market value, or require the applicant to obtain a professional appraisal of the market value, of the building or structure before the proposed work is performed. When repair of damage is proposed, the market value of the building or structure shall be the market value before the damage occurred:
 - B. Compare the cost of improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs or improvements and repairs, if applicable to the market value of the building or structure;
 - Except as indicated in subsection (2) and (3) below, all costs to repair substantial damage, including emergency repairs and the cost of complying with any county, state or federal regulation must be included:
 - 2. The costs associated with the correction of pre-existing violations of state or local health, sanitary or safety code specifications that were identified by the building official, the director of environmental health or

any other local code enforcement official prior to the improvement or repair, and that are the minimum necessary ensure safe living conditions, shall not be included;

- 3. Costs associated with the following items are not included:
 - a. The preparation and approval of all required plans, calculations, certifications and specifications;
 - b. The performance of surveys or other geotechnical or engineering studies and resulting reports;
 - c. Permit and review fees, and;
 - d. The construction, demolition, repair or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.
- 4. Proposed alterations to a designated historic building or structure are not to be considered a substantial improvement unless the alteration causes a loss of said designation.
- C. The Fioodplain Administrator shall make the final determination of whether the proposed improvement and/or repairs constitute a substantial improvement or substantial damage;
- D. The Floodplain Administrator shall notify the applicant of the results of the determination in writing.
- E. The applicant has the right to appeal the determination pursuant to Section 8.24.270.

8.24.160 Variance procedure. Watercourse Alterations

A. Requests for Variances and Appeals.

- 1. The city administrator shall hear and decide requests for variances from the requirements of this chapter.
- 2. The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the city administrator or his or her designee in the enforcement or administration of this chapter.

- 3. In passing upon such applications, the city administrator and/or-the city council shall consider all technical evaluations, all relevant factors and standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept enterether lands to the injury of others;
 - b. The danger to life and property due-to-flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood-damage and effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community:
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed-use to the comprehensive plan and fleedplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles:
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including emergency services and preservation, maintenance, restoration, replacement, and repair of public utilities and facilities.
- 4. Upon-consideration of the factors of subsection (3) of this section, and the purposes of this chapter, the city administrator may attach such conditions to the granting of variances as are deemed necessary to further the purposes of this chapter.
- The city administrator or his or her designee shall maintain the records of all appeal actions and report any variances to FEMA upon request.
- B. Conditions for Variances.

- 1. Generally, a variance from the elevation standards established in this chapter may only be issued for new construction, or for substantial improvements, which are to be erected/constructed on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the conditions of Section 8.24.160(A)(3) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.
- 2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, provided the conditions of Section 8.24.160(A)(3) have been fully considered.
- 3. Variances shall not be issued within a designated floodway if any increase in flood levels or significant extension/increase of the flood zone boundary during the base-flood discharge would result.
- 4. Variances shall only be issued upon a determination that the variance is the minimum necessary (in consideration of the flood hazard) to afford rollef.
- 5. Variances shall-only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, a significant increase/extension in the flood zone boundary, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing state and local laws or ordinances.
- 6. Variances as interpreted in the national flood insurance program are based on the general zoning law principle that they pertain to a physical piece 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.
- 7. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of fleedproofing than impermeable, where it can be determined that such action will have low-damage potential, complies with all other variance criteria

except Section 8:24.160(B)(1), and otherwise complies with Section 8:24.170 of this chapter.

- 8. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the elevation standards established in this chapter, and that the cost of flood incurance will be commensurate with the increased risk resulting from the reduced lowest-floor elevation. (Ord. 1785 §1, 1998; Ord. 1767 §1(part), 1997).
- A. Development shall not diminish the flood carrying capacity of a watercourse. If any watercourse will be altered or relocated as a result of the proposed development, the applicant must submit certification from a registered professional engineer that the flood carrying capacity will not be diminished.
- B. Applicant will be responsible for obtaining all necessary permits from governmental agencies from which approval is required by Federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972; 33 U.S.C. 1334, the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Division of State Lands regulations.
- C. If the altered or relocated watercourse is part of an area of special flood hazard, the applicant shall notify adjacent communities and Oregon Department of Land Conservation and Development prior to any alteration or relocation of the watercourse. Evidence of notification must be submitted to the Floodplain Administrator and to FEMA as set forth in Section 8.24.170.
- D. The applicant shall be responsible for the maintenance necessary for the altered or relocated portion of the watercourse, to ensure that flood carrying capacity will not be diminished.
- 8.24.170 General construction standards. Requirement to Submit New Technical Data 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 (refer to FEMA's "Manufactured Home Installation in Flood-Hazard Areas" guidebook for additional techniques and details).

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 conditions of flooding.

C. Utilities.

- All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- New and replacement sanitary sewage systems shall be designed to mitigate or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- 3. On-site waste disposal systems shall be located to avoid impairment to them-or contamination from them during flooding.
- 4. Storm drain systems shall be designed to adequately and completely drain all flood waters, when the flood levels diminish at the point of discharge. Discharge ends of storm drain systems shall be equipped with suitable devices which prevent the backflow of flood waters up through the storm drain sellection and conveyance system.

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 sower, natural gas, electrical, telephone, storm drain, cable television, and water systems located and constructed to minimize flood damage;

- 3. All subdivision proposals shall have adequate drainage facilities and appurtenances that effectively drain the proposed-subdivision and connecting properties (as applicable) to reduce exposure to flood-damage; and,
- 4.- Where base flood elevation data has not been provided or is not available from FEMA or another city approved authoritative source, it shall be generated at the expense of the applicant, and as approved by the city administrator or his designee, for subdivision and major and minor land partition proposals.
- E. Review of Building Permits. Where elevation data is not available either through FEMA or from another city-approved authoritative source, 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 by the city administrator or his designee, and includes use of historical data, high water marks, photographs of past flooding, etc., where available. In these areas, if the base flood elevation cannot be established, the lowest floor elevation, including basement, must be a minimum of two foot above finished grade or one foot above the known high water mark, whichever is greater. (Ord. 1767 §1(part), 1997).
 - A. Prior to floodplain development permit approval, a FEMA CLOMR is required for the following projects:
 - 1. Stream restoration projects:
 - 2. Watercourse alterations:
 - 3. Capital improvement projects:
 - 4. Subdivision proposals with infrastructure, lots or other improvements that encroach into the SFHA;
 - 5. Any bank stabilization that uses methods other than vegetative plantings to achieve shoreline stabilization and safety; and,
 - Projects that increase the floodway elevation or boundary;
 - B. Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA, or whose development alters a watercourse, modifies floodplain boundaries or BFEs shall obtain a LOMR from FEMA that reflects the as-built changes to the FIRM.
 - C. It is the applicant's responsibility to have technical data prepared in a format required for a CLOMR or LOMR and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the applicant's responsibility.

- D. Applicants shall be responsible for all costs associated with obtaining a CLOMR and LOMR from FEMA.
- E. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met all applicable requirements of this ordinance.

8.24.180 Specific additional standards for areas of special-flood hazard. Non-conversion of Enclosed Areas Below the Lowest Floor

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 8.24.070 of this chapter, basis for establishing the areas of special flood hazard or Section 8.24.150(B), Use of Other Base Flood Data, the following provisions are required:

A. Critical Facilities: Critical-facilities shall not be constructed within areas of special-fleed hazards.

B. Residential Construction.

- 1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
- 2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must be either certified by an Oregon registered professional engineer or architect and must meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total not area of not less than one square inch for every square feet of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - e. Openings may be equipped with screens, leuvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- C. Nonresidential construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest fleer, including basement, elevated at least one feet above the base fleed elevation; or, together with attendant utility and sanitary facilities, shall:

- 1. Be floodpreefed-so-that structures below one foot above base flood-level-are watertight with walls impermeable to the passage of water;
- 2. Have structural components capable of resisting hydrostatic and hydrodynamic leads and effects of buoyancy;
- 3. Be certified by an Oregon 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 written certifications shall be provided to the city administrator or his designee as set forth in Section 8:24.150(C)(2) of this chapter;
- 4. Nonresidential structures that are elevated and not floodproofed, must meet the same standards for space below the lowest-floor as described in Section 8.24.180(A)(2);
- 5. An applicant who floodproofs nonresidential buildings will have flood insurance promiums which are based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level elevation will be rated as one foot below the base flood elevation).

D. Manufactured Homes.

- 1. All manufactured homes to be placed or substantially improved within areas of special flood hazard shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed and approved foundation system to resist flotation, cellapse, and lateral movement.
- E. Recreational Vehicles: Recreational vehicles placed on sites within areas of special flood hazard must either:
 - 1. Be fully licensed and ready for highway use; is 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
 - 2. Most the requirements of Section 8.24.180(C), and has the elevation and anchoring requirements for manufactured homes. (Ord. 1767 §1(part), 1997).

To ensure that enclosed areas below the lowest floor continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation, the Floodplain Administrator shall:

- A. Determine which applications for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5-feet or higher;
- B. Require that the applicant enter into a Non-conversion Deed Declaration for Construction within Flood Hazard Areas" or equivalent with the City of Central Point. The deed declaration shall be recorded with the City of Central Point. The deed declaration shall be in a form acceptable to the Floodplain Administrator and City Council.

8.24.190 Specific additional standards for floodways. Site Improvements and Subdivisions Located within areas of special flood hazard established in Section 8.24.070 of this chapter 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, development will not normally be allowed within the floodway. However, if development is allowed within the floodway by the city administrator or his designee, then the following provisions will apply:

A. Responsibility.

- 1. Private Property. The property owner is responsible for maintenance and for activities within the floodway on private property.
- 2. Public Property. The city is responsible for maintenance and for activities within the floodway on public property within the city.
- 3. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by an Oregon registered professional engineer is provided demonstrating that encroachments shall not result in any increase in base flood levels during the occurrence of the base flood discharge, as approved by the city administrator or his designee.
- 4. If the condition of Section 8.24.190(A)(3) is satisfied, all new construction and substantial improvements shall comply with all applicable flood-hazard-reduction provisions of Sections 8.24.170 and 8.24.180.

B. Encreachments.

1. As certified by an Oregon registered professional engineer, retained by the applicant, no new construction, improvements, reconstruction, or rebuilding of stream

banks for purposes of eresion protection shall be done or caused to be done within the floodway boundary unless:

- a. There is no increase in base flood levels during the occurrence of the base flood discharge;
- b. The stream flow capacity will not be adversely affected;
- c. There will be no adverse effects on up-or-downstream properties; and
- d. There will be no adverse erosion or deposition problems caused by the proposed work.
- 2. In cases involving new construction or substantial improvements, including filling by the landowner, the landowner shall retain a registered professional engineer who shall certify to the satisfaction and approval of the city administrator or his designee that the proposed work complies with the terms of Section 8.24.190(B)(1).
- 3. In the case of reconstruction or rebuilding of stream banks by the owner for proposed erosion protection, an Oregon registered engineer's certification may not be required if, in the opinion of the city administrator or his designee, that the requirements of Section 8.24.190(B)(1) have been met and, in connection with rendering such determination; the city administrator or his designee may consult with the appropriate regulatory or resource agencies before approving the request.
- C. Mobile Homes. No mobile home shall be placed in a floodway except in an existing mobile home park or an existing mobile home subdivision, as conditionally approved by the city administrator or his designee, in consideration of the conditions of Section 8.24.160(B). (Ord. 1768 §1, 1997; Ord. 1767 §1(part), 1997).
 - A. Ail proposed new development and subdivisions shall be consistent with the need to minimize flood damage and ensure that the building sites will be reasonably safe from flooding as set forth in Section 8.24.050. The test of reasonableness is a local judgment and shall be based on historical data, high water marks, photographs of past flooding, etc.
 - B. Building lots shall have adequate buildable area outside of the regulatory Floodway and the Special Stream Setback set forth in Section 8.24.230, which shall be dedicated <u>preserved</u> as an open space <u>by</u> easement, conservation easement or public park.
 - C. New development proposals and subdivision development plans, including tentative plat and approved engineered drawings and as-builts, shall include

- the mapped flood hazard zones from the effective FIRM, including the regulatory floodway, if applicable, and estimated BFEs at each parcel.
- D. Subdivisions shall be created and designed to minimize risk of damage to property and potential loss of life from flooding, and minimize the disturbance of floodplain riparian zones by locating infrastructure and lots outside the SFHA. Reserved SFHA land shall be and preserved preserving as open space by easement or dedication as a public park. When a subdivision proposal includes improvements that encroach into the SFHA, the applicant shall demonstrate that adverse impacts to existing and anticipated future development, in the form of increased flood elevations, flood velocity, floodplain extent and floodway extent, are avoided or mitigated by providing the following information:
 - 1. Engineered grading plan.
 - 2. Floodplain encroachment analysis certified by a registered professional civil engineer that identifies the cumulative impacts of the proposed encroachments, including fill and new construction, on the flooding source (i.e. stream) and all associated insurable structures, on the SFHA boundaries, BFE, and regulatory floodway, if applicable.
 - 3. CLOMR from FEMA.
- E. Where BFE data has not been provided or is not available from another authorized source, the applicant shall provide a hydriologic and hydraulic engineering analysis that generates BFEs for all subdivision proposals and other proposed developments, at least one acre or fifty four lots in size (whichever is less).
- E. New development and subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
- F. Onsite waste disposal systems shall be located and constructed to avoid functional impairment or contamination from them during flooding prohibited.
- G. Subdivisions and manufactured home parks shall have adequate drainage provided to reduce exposure to flood hazards as provided in Section 8.24.240. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

8.24.200 Specific additional standards for shallow flooding areas. Development in Regulatory Floodways

Shallow flooding areas appear on FIRMs as AO or AH zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In the shallow flooding areas, the following provisions apply:

- A. Now construction and substantial improvements of residential structures and manufactured homes within areas of shallow flooding shall have the lowest-floor (including basement) elevated above the existing highest grade (within ten feet of the existing or proposed building), one feet or more above the depth number specified on the FIRM, or at least two-feet if no depth number is specified.
- B. New construction and substantial improvements of nonresidential structures within areas of shallow flooding shall either:
 - 1. Have the lowest floor (including basement) elevated above the existing-highest grade (within ten feet of the existing or proposed building), one foot or more above the depth number specified on the FIRM, or at least two feet if no depth number is specified; or
 - 2. Together with attendant utility and sanitary facilities, be completely floodproefed to or above that level so that any space below that level is watertight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by an Oregon registered professional engineer or architect.
- C. Require adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- D. Recreational vehicles placed on sites within areas of shallow flooding shall either:
 - 1. Be fully licensed and ready for highway use; is 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
 - 2. Meet the requirements of Section <u>8.24.180(C)</u> of this chapter and the elevation and anchoring requirements for manufactured homes stated in Section <u>8.24.170</u> of this chapter. (Ord. 1767 §1(part), 1997).

Located within areas of special flood hazard established in Section 8.24.070 of this chapter are areas designated as regulatory floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles, and erosion potential, development will not normally be allowed within the floodway. However, if development is allowed within the floodway by the floodplain administrator or designee, the following provisions shall apply:

- A. Except as provided in Section 8.24.200(E) and (F), encroachments including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge;
- B. Provided that the conditions in Paragraph (A) are met, the following additional provisions shall apply:
 - 1. Floodplain development construction standards provided in Sections 8.24.250 and 260 are met:
 - Any fill allowed to be placed in the floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood related erosion and scour.
 - 3. No manufactured dwelling shall be placed in a floodway except in an existing mobile home park or an existing mobile home subdivision, as conditionally approved by the local administrator or designee in consideration of the conditions of Section 2.24.250(G);
- C. The following activites are prohibited in the regulatory floodway:
 - 1. Fences and walls as provided in Section 17.57.030(A) and Section 8.24.260(A)(1); and,
 - Accessory structures as provided in Section 8.24.250(I).
- D. In limited circumstances encroachments associated with functionally dependent uses (i.e. bridges, roads, culverts); historic structure reconstruction, restoration and rehabilitation; and, stream restoration projects as provided in Section 8.24.200(F) and 8.24.270(B)(2)(vi), that cause an increase to the BFE are allowed provided that the applicant demostrate that no other alternative is available. In such circumstances, applicants shall obtain a

CLOMR from FEMA before an encroachment, including fill, new construction, substantial improvement, and other development in the floodway is permitted that will cause any increase in the BFE, unless the development causes a temporary encroachment and conditions in Paragraph (E) of this Section and the floodplain development construction standards provided in Section 8.24.250 and 260 are satisfied;

- E. Temporary encroachments in the regulatory floodway for the purposes of capital improvement projects, including bridges and culverts, shall be allowed even if the encroachment results in an increase in flood levels during the occurrence of the base flood discharge, and without obtaining a CLOMR when:
 - 1. The project is limited as to duration with the days and dates that the structure or other development will be in the regulatory floodway, as specified in the floodplain development permit;
 - 2. Accessory structures (i.e. construction trailers) are restricted from the regulatory floodway;
 - 3. The project limits placement of equipment and material in the regulatory floodway to that which is absolutely necessary for the purposes of the project. Justification that demonstrates compliance with this requirement will be documented by the applicant in the required floodplain development permit application submittal documentation;
 - 4. The applicant identifies any insurable structures affected by temporary changes to the area of special flood hazard or BFE and notifies owners of any increased risk of flooding. Documentation demonstrating compliance with this provision shall be provided to the City as part of the floodplain development application; and,
 - 5. The project applicant is provided with written notification that they may be liable for any flood damages resulting from the temporary encroachment.
- F. Projects for stream habitat restoration may be permitted in the floodway provided:
 - 1. The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023);
 - 2. A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources or water resources

- agencies) as provided a feasibility analysis and certification that project was designed to keep any rise in the base flood levels as close to zero as practically possible given the goals of the project;
- 3. No structures would be impacted by a potential rise in the flood elevation; and,
- 4. An agreement to monitor the project, correct problems and ensure that flood carrying capacity remains unchanged is included as part of the local floodplain development approval.

8.24.210 Development in Zones with BFEs but No Regulatory Floodway

- A. In areas with Zones A1-30 and AE on the community's FIRM with a BFE, or where a BFE is developed according to Section 8.24.190(D), but where no regulatory floodway has been designated, new construction, substantial improvements, or other development (including fill) shall be prohibited unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- B. Applicants of proposed projects that increase the BFE more than one foot shall obtain from FEMA a CLOMR before the project is permitted, as provided in Section 8.24.170.

8.24.220 Development in Zones without Base Flood Elevations

The following standards apply in riverine areas of special flood hazard where no BFE data have been provided (approximate A Zones):

- A. When BFE or floodway data have not been identified by FEMA in a FIS and/or FIRM, the floodplain administrator shall obtain, review, and reasonably utilize scientific or historic BFE and floodway data available from a federal, state, or other source, in order to administer this ordinance. If BFEs or other engineering data are not available from an authoritative source, the applicant shall develop BFEs in accordance with Section 8.24.190(E) or subsection (C) below shall apply.
- B. In special flood hazard areas without BFE data,

- No encroachments, including structures or fill, shall be located in an area of special flood hazard within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless a BFE is developed by a licensed professional engineer; or,
- 2. The lowest floor of any insurable building or structure, including manufactured dwellings, shall be elevated a minimum of three feet above the highest adjacent grade.

8.24.230 Stream Setback Requirements

Stream setbacks mitigate future flood losses by providing flood storage, enhancing channel stability, and buffering structures and other development from migrating stream channels. In addition, the stream setback establishes riparian buffer areas that provide opportunities for natural stormwater treatment, increased habitat for fish and wildlife species and increased opportunities for recreation and wildlife viewing. The stream setback shall apply to all streams in all Central Point zoning districts, provided that the setback does not apply to the Jackson Creek Overbank regulatory floodway delineated on the effective FIRM, in accordance with the provisions provided in Section 17.60.090.

8.24.240 Drainage Provisions

Adequate drainage paths shall be provided around structures on slopes to guide flood waters around and away from proposed and existing structures, subject to the following criteria:

- A. Surface water runoff should be treated on-site using low impact development practices, such as rain gardens; and,
- B. Surface water runoff that is not treated onsite using low impact development practices shall rain to an approved storm drain facility as provided in the Public Works Standard Specifications.

8.24.250 Floodplain Development Standards for Construction

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 (refer to FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques and details).

B. Construction Materials and Methods

- All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 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 elevated above the BFE and/or designed or located to prevent water from entering or accumulating within the components during conditions of flooding.

Refer to FEMA Technical Bullet 02-08 for more information about the flood resistant materials requirement.

C. Utilities

- 1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- New and replacement sanitary sewage systems shall be designed to mitigate or eliminate infiltration of flood waters into the system and discharge from the system into flood waters.
- 3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.
- 4. Storm drain systems shall be designed to adequately and completely drain all flood waters, when the flood levels diminish at the point of discharge. Discharge ends of storm drain systems shall be equipped suitable devices which prevent the backflow of flood waters up through the storm drain collection and conveyance system.

Refer to FEMA Publication No. 348, "Protecting Building Utilities from Flood Damage" for more information about flood resistant utilities design and construction.

D. Critical Facilities

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative site is available. Critical facilities constructed within the special flood hazard area shall have the lowest floor elevated three feet above the BFE or base depth, or to the height of the 0.2 percent (500-year) flood level, whichever is higher. Access to and from the critical facility shall be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters.

E. Residential Construction

- 1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the BFE or base depth; or, if no base depth is specified in an area of shallow flooding (Flood Zones AO and AH), shall be elevated at least two feet above the highest adjacent grade.
- 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 flood waters. Designs for meeting this requirement must be either certified by an Oregon registered professional engineer or architect and 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 in accordance with the following additional requirements:
 - i. Opening area must be located below the BFE to satisfy this requirement;
 - ii. Openings must be at least 3-inches wide. This requirement applies to the hole in the wall, exclusing any device that may be inserted such as a typical foundation air vent device, mesh screens and hardware cloth;

- iii. The bottom of all openings shall be no higher than 12-inches above the adjacent grade;
- iv. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- 3. Below-grade crawlspace foundations are allowed where BFE data are available, provided that they conform to guidelines provided in FEMA Technical Bulletin 11, Crawlspace Construction for Structures Located in Special Flood Hazard Areas, building codes and the below-grade crawlspace provisions set forth in Section 8.24.250(J).

F. Non-residential Construction

New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated at least one foot above the BFE or base depth; or, if no base depth is specified in an area of shallow flooding, shall be elevated at least two feet above grade; and together with attendant utility and sanitary facilities shall:

- Be floodproofed so that structures below one foot above base flood level, as specified above, are watertight with walls 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 an Oregon 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 written certifications shall be provided to the floodplain administrator or designee as set forth in Section 8.24.130 (L) of this chapter; and,
- 4. Non-residential structures that are elevated and not floodproofed must meet the same standards for space below the lowest floor as described in Section 8.24.250(E)(2) and (3).

G. Manufactured Dwellings

In addition to Paragraphs A and B of this Section, new, replacement and substantially improved manufactured dwellings are subject to the following standards:

- Manufactured dwellings shall be elevated on a permanent foundation, such that the lowest floor of the manufactured home is elevated a minimum of 18-inches above the BFE;
- 2. Manufactured dwellings supported on solid foundation walls with enclosed areas below the BFE are prohibited unless the foundation walls are designed to automatically equalize hydrostatic forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect, or meet or exceed the minimum criteria set forth in Section 8.24.250(E)(2)(a) through (c);
- 3. The bottom of the longitudinal chassis frame beam in A zones shall be at least 12-inches above the BFE:
- 4. The manufactured dwelling shall be anchored to prevent flotation, collapse and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors; and,
- 5. Electrical crossover connections shall be a minimum of 12-inches above the BFE.

Refer to FEMA's Manufactured Home Installation in Flood Hazard Areas guidebook for additional information.

H. Recreational Vehicles

In all areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the zoning ordinance must either:

- 1. Be placed on the site for fewer than 180 consecutive days:
- 2. Be fully licensed and ready for highway use; is 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
- Meet the requirements of Section 8.24.250(G), Manufactured Dwellings, and including the elevation and anchoring requirements. (Ord. 1767 §1(part), 1997).

I. Accessory Structures

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 200 square feet. Such a structure must meet the following standards:

- 1. Be located and constructed to minimize flood damage;
- 2. Be designed so as to not impede flow of flood waters under base flood conditions:
- 3. If located in a regulatory Floodway, shall meet the provisions set forth in Section 8.24.200 Are prohibited in the regulatory floodway.
- It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;
- 4. Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below BFE, or where no BFE is available lower than three feet above grade, unless confined in a tank installed in compliance with this ordinance;
- 5. Be constructed of flood resistant materials;
- 7. Be firmly anchored to prevent flotation;
- 8. Have electrical service and/or mechanical equipment elevated or flood-proofed to or above the BFE, and;
- 9. Be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or meet the minimum design criteria set forth in Section 8.24.250(E)(2)(a) through (c).

J. Below-grade Crawispaces

Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11, *Crawlspace Construction for Buildings Located in Special Flood Hazard Areas*. Residents should note that there is an increased cost for flood insurance associated with below-grade crawlspaces. There is a charge added to the basic policy premium for a below-grade crawlspace versus a standard, at grade, crawlspace foundation.

- 1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Sections 8.24.250 (E)(2). Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
- 2. The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one foot above the lowest adjacent exterior grade.
- 3. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
- 4. Any building utility systems within the crawlspace must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular must either be placed above the BFE or sealed from floodwaters.
- 5. The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.
- 6. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

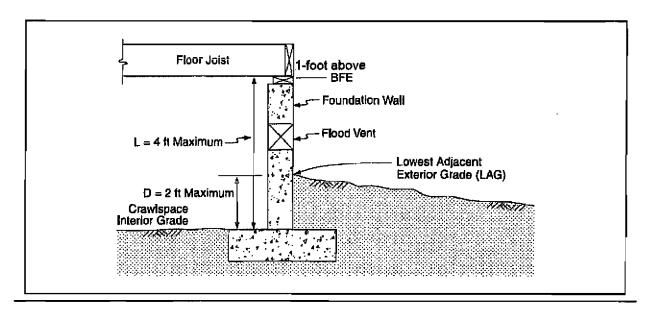


Diagram 1. Requirements regarding below-grade crawlspace construction.

- 7. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
- 8. The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

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

8.24.260 Other Development

A. Fences and Walls

Fencing within the floodplain occurs frequently and can significantly increase flood elevation. This is due to the fences collecting debris and effectively creating a dam. Limited fencing will be allowed within the floodplain; provided, that it does not create flow restrictions and allow for the free flow of water. The following provisions shall apply to all fences permitted in the SFHA:

- 1. Fences are prohibited within the stream setback area on lots platted after the effective date of this ordinance. Fences may be permitted in the stream setback area established pursuant to Section 17.60.090 on lots platted prior to the effective date of this ordinance provided that requirements provided below are satisfied:
 - a. Fences in the regulatory Floodway are prohibited;
 - b. Fences are setback a minimum of 5-feet from the top-of-bank;
 - c. Gates that are installed between properties that border a creek shall be of a width no less than twelve feet.
 - d. Fencing must be built in removable sections;
 - e. Fencing that consists of solid walls, creates a barrier impervious to stream flow or fencing that greatly restricts the flow of water is prohibited.
 - f. Gates installed between properties that border a creek shall have a minimum width of 12-feet.
 - g. Such fences, if significantly damaged or destroyed by a flood shall require a floodplain development permit pursuant to Section 8.24.130 and subsection (2) below to ensure that reconstruction methods are consistent with the need to minimize future flood damages.
- 2. Fences are a form of development and require a floodplain development permit pursuant to Section 8.24.090. Evaluation of floodplain development permit applications for proposed fences will be based on the following criteria:
 - a. Barbed wire fencing or other like material, which creates an unreasonable or unnecessary risk of injury are prohibited.
 - b. Fences shall not be allowed within the special stream setback set forth in Section 8.24.230 and Section 17.60.090 u⊓less the requirements provided in Chapter 8.24.260(A)(1) are satisified.
 - c. Fencing shall be limited to the types that do not greatly restrict the passage of water or cause the accumulation of debris, as provided in the table below.

- 3. The city may, at any time, for any reason, require removal of any fence placed in the stream setback area, with no compensation to the owner for the value of the fence. If removal is not accomplished by the owner within thirty days after city's written request thereof, city may affect removal and disposal, and assess the property for the costs thereof in the same manner as set forth in Section 8.08.030 of this code.
- 4. If existing circumstances make it reasonably necessary for city to remove a fence in the stream setback area without giving the property owner advance notice and an opportunity to remove the fence, city may affect removal and disposal, and assess the property for the costs thereof in the same manner as set forth in Section 8.08.030 of this code, the same as if the property owner had failed to remove the fence after due notice.
- 5. The city shall not, under any circumstances, be responsible for any damage resulting from city's removal of any fence placed in the stream setback area, whether such damage is to a fence, landscaping, underground sprinklers, any building or structure, loss of a pet, damage caused by a loose pet, or any other damage whatsoever, including personal injury. (Ord. 1846 §2(part), 2003).

| Table 1 - Fence Evaluation Criteria | | | | | | | | | |
|-------------------------------------|--|---------------------|--|--|--|--|--|--|--|
| Fence or Wall Type | Floodway Fringe | Regulatory Floodway | Shallow/Sheetflow/Ponding Zones | | | | | | |
| A | No | No | No | | | | | | |
| В | Yes | No | Yes | | | | | | |
| С | Design review required | | | | | | | | |
| D | Yes, if open at base to BFE | No | Yes, if open at base to BFE | | | | | | |
| E | Yes, if open at base to BFE | No | Yes, if open at base to BFE | | | | | | |
| F | Yes, if adequate openings at base to BFE | No | Yes, if adequate openings at base to BFE | | | | | | |
| G | Yes, if adequate openings at base to BFE | No | Yes, if adequate openings at base to BFE | | | | | | |
| Н | Yes, if adequate openings at base to BFE | No | Yes, if adequate openings at base to BFE | | | | | | |

¹ Ensure fence will collapse under anticipated base flood conditions. Debris impacts must be considered.

Fence/Wall Types:

- A Open barb or barbless wire. Open means no more than one horizontal strand per foot of height.
- B Open pipe or rail fencing (e.g. corrals). Open means rails occupy less than 10% of the fence area and posts are spaced no closer than 8-feet apart.
- C Collapsible fencing.
- D Other wire, pipe or rail fencing (e.g. field fence, chicken wire, etc.) which does not meet open requirements above.
- E Chain link fencing
- F Continuous wood fencing
- **G** Masonry walls
- H Retaining walls, bulkheads

B. Tanks

- 1. New and replacement tanks in flood hazard areas shall be either elevated above the BFE on a supporting structure designed to prevent flotation, collapse or lateral movement during conditions of the base flood, or be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the base flood. Designs for meeting the requirements above shall be certified by a registered professional engineer. The certification shall be maintained on file with the floodplain development permit as provided in Section 8.24.130(M).
- 2. New and replacement tank inlets, fill openings, outlets and vents shall be placed a minimum of two feet above the BFE or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the base flood.

8.24.270 Interpretations and Variance

This section provides criteria and procedures for interpretations and variances to the application of provisions established in this chapter.

- A. Interpretations. Requests for interpretation of the provisions of Section 8.24, Flood Damage Prevention shall be made in writing to the floodplain administrator in accordance with the interpretation provisions set forth in Section 17.11 of the Central Point Municipal Code.
 - 1. It shall be the applicant's responsibility to provide sufficient scientific or technical documentation to support any appeals of the floodplain administrator's interpretation of Chapter 8.24, Flood Damage Prevention, filed in accordance with Section 17.11.200(E).
- B. Variances. Exceptions to the standards and criteria of Section 8.24, Flood Damage Prevention shall be made in writing to the floodplain administrator on the form provided by the city and include, at a minimum, the same information required for a floodplain development permit, a written explanation for the basis of the variance request and any necessary documentation to show the variance is warranted and meets the criteria established in subsection (2) below.

- 1. Procedural Requirements. Variances shall be subject to the procedural requirements set forth in Section 17.05.400 for a Type III (quasi-judicial) Review Procedure.
- 2. Variance Criteria. The city shall approve, approve with conditions, or deny an application for a variance based on the following criteria:
 - i. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result:
 - ii. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-j) in Section 8.24.270(i) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases;
 - iii. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - iv. Variances shall only be issued upon a:
 - a. Showing of good and sufficient cause;
 - b. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create public nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - v. Variances may be issued for a water dependent use provided that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
 - vi. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of

- Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- vii. 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 guite rare.
- viii. Variances may be Issued for non-residential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with the building codes.
- ix. In passing upon such applications, the City shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger to life and property due to flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage on the individual owner;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
 - g. Compatibility of the proposed use with existing and anticipated development;

- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area:
- i. Safety of access to the property in times of flood for ordinary and emergency vehicles:
- j. Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, as well as streets and bridges.

8.24.280 Penalties for Non-Compliance

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. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Each and every day during any portion of which any violation this Chapter is committed, continued or permitted by any person constitutes a separate violation. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$250 per day or imprisoned for not more than 5 days, or both, for each violation and in addition shall pay all costs and expenses involved in the case. Each day that passes constitutes a separate offense. Nothing contained in this chapter shall prevent city from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 1767 §1(part), 1997).

8.24,290 Severability

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

8.24,300 Abrogation and Greater Restrictions

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, state building code, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 1767 §1(part), 1997).

Passed by the City Council and signed by me in authentication of its passage this

24 day of March, 2011.

Mayor Hank Williams

City Recorder

ORDINANCE NO. 1948

AN ORDINANCE AMENDING SECTIONS 17.57.020, 17.57.030 AND 17.57.040 OF THE CENTRAL POINT MUNICIPAL CODE REGARDING FENCES WITHIN FLOODPLAIN

Recitals:

- A Pursuant to the requirements set forth in CPMC Section 17.075, the City has conducted the following duly advertised public hearings to consider proposed amendments:
 - 1. Planning Commission hearing on February 1, 2011.
 - City Council hearing on March 10, 2011.
- B. At the public hearing on March 10, 2011, the City Council reviewed the staff report, received the findings of the Central Point Planning Commission, and received public testimony from all interested persons. Based upon all of the information received, the City Council adopts the findings and conclusions set forth in the staff report dated March 10, 2011, and based upon the same, the City Council finds that there is sufficient public need and justification for the proposed text amendments.
- C. The revisions to this ordinance are being made to bring the code into compliance with the state model code for development within the Special Flood Hazard Area (SFHA), more commonly referred to as the 100-year floodplain.
- C. The City Manager is directed to conduct post acknowledgement procedures defined in ORS 197.610 et. Seq. upon adoption of the changes to the municipal code.
- D. Words lined through in the following ordinance are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

Section 1. Section 17.57.020 of the Central Point Municipal Code is amended to read:

17.57.020 General regulations.

A. Fence Permits. A fence permit is required for all fences constructed within the one-hundred-year floedplain, defined by the local Floed Insurance Rate Maps (FIRMs) and for all fences contructed within a public right-of-way, per Section 12.20.020. Fences in the floodplain are regulated in accordance with the provisions established in Section 8.24.260(A) of the municipal code.

B. Building Permits. A building permit for the following structures shall be accompanied by a permit fee and a plan review fee in an amount based on valuation per the building department fee schedule as adopted by the city:

- 1. Barriers around swimming pools, as required by the 2003 State of Oregon Dwelling Specialty Code, Chapter 41 and Appendix G; and the 1998 Oregon Structural Specialty Code, Appendix Chapter 4;
- 2. Fences over six feet tall;
- 3. Masonry walls;
- 4. Retaining walls over four feet in height measured from the bottom of the footing to the top of the wall; and
- 5. Retaining walls, any height, supporting a surcharge.
- C. Setbacks and Design Criteria.

Fence Regulations

| | R-L | R-1 | R-2 | R-3 | C-N | C-2(M) | C-4 | C-5 | M-1 | M-2 |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Fence Permit Required | a, a-1 |
| Front Yard Setback For 6' Fence | 20' b |
| Side Yard Setback | 5' | 5' | 5' | 5' | 5' | 5' | 5' | 5' | 5' | 5′ |
| Rear Yard Setback | 0, | 0' | 0, | 0, | 0, | 0, | 0, | 0, | 0' | 0' |
| Corner Lot | 10' c |
| Masonry Walls, Retaining Walls, Fences Over 6' in Height | е | e | е | е | е | е | е | е | е | е |
| Chain Link Fencing, Space- Board-Type Fencing, etc. | е | e | е | е | е | ө | е | е | е | е |
| Setbacks for Gates | 20' | 20' | 20' | 20' | 20' | 20' | 20' | 20' | 20' | 20, |
| Variances | f | f | f | f | f | f | f | f | f | f |

a: A fence permit is required if fence is to be constructed in public right-of-way.

a-1: A building permit is required for fencing around swimming pools, fences over six feet in height, masonry walls and retaining walls.

^{*}b: Forty-two-inch-high maximum fences allowed within front setback area.

- *c: No fencing will conflict with the sight distance requirements set by the public works department.
- *d: Fence height will be measured from the finished grade on the side nearest the street.
- e: Requests for variances shall be made by application on such form as designated by the city administrator and will be reviewed in accordance with Chapter 17.05.

(Ord. 1846 §2(part), 2003).

Section 2. Section 17.57.030 of the Central Point Municipal Code is amended to read:

17.57.030 Fences in the stream setback area.

- A. Fences are prohibited inside a floodways as designated on the Federal Insurance Rate Maps (FIRMs) for the city of Central Point. However, some types of fences and other improvements can be allowed within the recommended building setbacks for properties abutting a stream as long as they meet the following criteria: subject to the criteria set forth in Section 8.24.260(A) of the Central Point Municipal Code.
 - 1. A setback of five feet-from the top of the stream bank is required for all fensing. This allows for periodic inspection of the creek channel by the city.
 - 2. Gates that are installed between properties that-border a creek shall-be of a width no less than twelve-feet.
 - 3. Irrigation systems constructed inside a floodway-should be designed to allow for public works vehicles to navigate in the setback area.
 - 4. Irrigation-systems, fencing or other objects and improvements that are damaged in a flood event within the city of Central Point's jurisdiction will not be replaced by the city.
- B. Prehibition of Fencing in the Stream Setback Area Discussion. Fencing within the floodplain occurs frequently and can significantly increase flood elevation. This is due to the fences collecting debris and effectively creating a dam. Limited fencing will be allowed within the floodplain; provided, that it does not create flow restrictions and allow for the free flow of water. The policies will not apply to agricultural or agricultural/residential parcels greater than five acres, except where flood elevations are significantly impacted.
- C. Prohibition of Fencing in the Stream Setback Area-Policies.
 - Fencing will be prohibited within the floodway of a watercourse. Open fencing
 parallel to the flow direction may be allowed within the stream setback area on a
 case by case basis.
 - 2. Fencing built within the stream setback area must be built in removable sections.

 Maximum width per section shall be no wider than eight feet.
 - Fencing that consists of solid walls, creates a barrier impervious to stream flow-or fencing that greatly restricts the passage of water will not be allowed.
 - 4. Fencing outside the floodway but within the convoyance area of a watercourse will be restricted to the least flow restrictive types of open fencing.
 - 5. Fencing outside the conveyance area of a watercourse but within the one-hundredvear floodplain will be restricted to fencing that allows the passage of water.

- 6. The city may, at any time, for any reason, require removal of any fence placed in the stream setback area, with no compensation to the owner for the value of the fence. If removal is not accomplished by the owner within thirty days after city's written request therefor, city may effect removal and disposal, and assess the property for the costs thereof in the same manner as set forth in Section 8.08.030 of this code.
- 7. If existing circumstances make it reasonably necessary for city to remove a fence in the stream setback area without giving the property owner advance notice and an opportunity to remove the fence, city may effect removal and disposal, and assess the property for the costs thereof in the same manner as set forth in Section 8.08.030 of this code, the same as if the property owner had failed to remove the fence after due notice.
- From city shall not, under circumstances, be responsible for any damage resulting from city's removal of any fence placed in the stream setback area, whether such damage is to a fence, landscaping, underground sprinklers, any building or structure, less of a pet, damage caused by a loose pet, or any other damage whatsoever, including personal injury. (Ord. 1846 §2(part), 2003).

Section3. Section 17.57.040 of the Central Point Municipal Code is amended to read:

17,57,040 Prohibited fence types.

- A. Barbed wire fencing or other like material, which creates an unreasonable or unnecessary risk of injury.
- B. Block or retaining walls, which create impervious water barriers within a stream setback area as provided in Section 8.24.260. (Ord. 1846 §2(part), 2003).

Section 2.

Passed by the City Council and signed by me in authentication of its passage this

24th day of March, 2011.

Mayor Hank Williams

City Recorder

ATTEST:

502



017H15538784 \$1.889 04/26/2011 Malled From 97502

ATTN: Larry French, Plan Amendment Specialist Department of Land Conservation & Development 135 Capital Street NE, Suite 150 Salem, OR 97301 - 2540

Stephanie Holtey, CFM Floodplain/Stormwater Coordinator

140 South 3rd Street · Central Point, OR 97502 · (541) 664-7602 · www.centralpointoregon.gov

April 26, 2011

APR 29 2011

AND DEVELOPMENT

Attention: Larry French, Plan Amendment Specialist Department of Land Conservation & Development 635 Capitol Street NE, Suite 150 Salem, OR 97301-2540

Re: Land Use Regulation Notice of Adoption

Dear Mr. French:

Please accept this notice of adoption for amendments to the Central Point Flood Damage Prevention and Fence ordinances, which are set forth in Chapters 8.24 and 17.57 of the Central Point Municipal Code. These amendments were made to comply with the National Flood Insurance Program requirements and to clarify floodplain development procedures within the regulatory floodplains in Central Point. The attached amendments took effect on April 24, 2011, following a 30-day appeal period. No appeals were filed.

If you have any questions, please feel free to contact me by telephone at (541) 664-7602, Ext. 244 or by email at stephanie.holtey@centralpointoregon.gov. Thank you.

Sincerely,

Stephanie Holtey, CFM

Floodplain/Stormwater Coordinator

smh

Enclosure

Cc: Jamie Huff, FEMA Region X

Christine Shirley, State NFIP Coordinator

Tom Humphrey, Community Development Director

Don Burt, Planning Manager

Planning File 11031