



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/07/2011

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

FROM: Plan Amendment Program Specialist

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

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

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, February 16, 2011

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

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

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Bunny Lincoln, City of Eagle Point  
Gloria Gardiner, DLCD Urban Planning Specialist  
Chris Shirley, FEMA Specialist  
Ed Moore, DLCD Regional Representative

<paa> YA

# FORM 2

## DLCD NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18

(See second page for submittal requirements)

DEPT OF

JAN 31 2011

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: CITY OF GAGUE POINT

Local File No.: \_\_\_\_\_  
(If no number, use none)

Date of Adoption: 1/25/11  
(Must be filled in)

Date Mailed: 1/26/11  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 11/15/10

- |  |   |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment  |
| <input type="checkbox"/> Land Use Regulation Amendment     | <input checked="" type="checkbox"/> Zoning Map Amendment  |
| <input type="checkbox"/> New Land Use Regulation           | <input checked="" type="checkbox"/> Other: <u>FLOOD ORDINANCE (FEMA)</u><br>(Please Specify Type of Action) |

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

ADOPTED FEMA Firm, OFirm, FLS & Comp/ZONING MAP AMENDMENTS.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same". If you did not give notice for the proposed amendment, write "N/A".

Plan Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Zone Map Changed from: \_\_\_\_\_ to: \_\_\_\_\_

Location: N \_\_\_\_\_ A Acres Involved: \_\_\_\_\_

Specify Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals:

Was an Exception Adopted? Yes:  No:

Does Adopted Amendment affect the areas in unincorporated Washington County where the

Zoning Code applies? Yes  No

DLCD File No.: 002-10 (18610) [16500]

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: **FEMA**

Local Contact: **BUNNY LINCOLN** Area Code + Phone Number: **541-836-4212**

Address: **P.O. BOX 779** City: **EAGLE POINT**

Zip Code+4: **97524-0779** Email Address: **bunnylincoln@cityofeaglepoint.or.gov**

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

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

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to **8-1/2x11 green paper only**; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [Mara.Ulloa@state.or.us](mailto:Mara.Ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

**ORDINANCE NO. 2011 - 01**

**AN ORDINANCE ESTABLISHING REGULATIONS TO PREVENT FLOOD DAMAGE WITHIN THE CITY OF EAGLE POINT, OREGON, ADOPTING RELATED FIRM MAPS AND "THE FLOOD INSURANCE STUDY (FIS) FOR JACKSON COUNTY AND INCORPORATED AREAS" AND REPEALING ORDINANCE NO. 12-213.**

**WHEREAS**, the Legislature of the State of Oregon has, in **Title 21** of the **Oregon Revised Statutes**, delegated to local governments responsibility for adoption of regulations designed to promote the public health, safety and general welfare of its citizenry, and

**WHEREAS**, portions of the City of Eagle Point, Oregon (hereinafter referred to as the "City") lie within federally mapped flood hazard zones **AE** and **X**, and

**WHEREAS**, the City has experienced significant flooding from time to time, and

**WHEREAS**, said flooding levels and areas have exceeded those delineated on FEMA maps **41029C1779F**, **41029C1781F** and **41029C1783F**, effective date: **May 3, 2011**, and

**WHEREAS**, said periodic flooding has caused extensive impact upon the public health, safety and economy of the City of Eagle Point, and

**WHEREAS**, these adverse impacts are caused by the cumulative effect of obstructions in areas of special hazard which increase water flow heights and velocities, and when inadequately constructed and/or anchored, damage uses in other areas. Uses that are inadequately flood proofed, unless elevated and constructed to otherwise be protected from flood damage also contribute to flood loss, and

**WHEREAS**, the City Council of the City of Eagle Point, Oregon finds that it is necessary for the health, welfare and safety of the City, and of its residents,

- 1.) to protect human life and health;
- 2.) to minimize expenditure of public funds and the necessity of costly flood control projects;
- 3.) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4.) to minimize negative economic impacts of prolonged business interruptions;
- 5.) to minimize damage to public facilities and utilities (water, gas, power, phone, sewer, streets and bridges) in flood hazard areas;
- 6.) to maintain a stable tax base by ensuring sound use and development of flood hazard areas to minimize potential future blight areas;
- 7.) to ensure that potential buyers are notified that a property is located in an area of specific flood hazard;

- 8.) to ensure that property owners in said areas assume responsibility for appropriate development standards, and
- 9.) for developers of properties located within the designated flood hazard zone(s) to be required to site new or altered construction at a specific height so as to reduce potential property damage, and

**WHEREAS**, in order to accomplish its purposes, this ordinance includes methods and provisions for:

- 1.) Restricting or prohibiting uses which are dangerous to health, safety and property due to water erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- 2.) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3.) Controlling the alteration of natural flood plains, stream channels, and protective barriers accommodating or channeling flood waters;
- 4.) Controlling filling, grading, dredging and other development which may increase flood damage;
- 5.) Preventing or regulating construction of flood barriers which will unnaturally divert flood waters or increase flood hazards in other areas, and
- 6.) Coordinating and supplementing the provisions of the **State Building Code** with local land use and development ordinances; now, therefore,

**THE CITY OF EAGLE POINT ORDAINS AS FOLLOWS:**

**SECTION 1. DEFINITIONS:** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage, and to give this ordinance its most reasonable application.

- 1.) **“ACCESSORY BUILDING/USE”** – any attached or detached, subordinate building, the use of which is incidental and subordinate to that of the primary building or use on the same lot.
- 2.) **“APPEAL”** – a request for review of the City Administrator’s interpretation of any provision of this ordinance or request for a variance.
- 3.) **“AREA OF SHALLOW FLOODING”** – a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined flood channel does not exist; the path of flooding is unpredictable and indeterminable; and, velocity flow may be evident. AO is characterized as sheet flow. AH indicates ponding. **NOTE:** **Eagle Point has no areas designated as AO or AH.**
- 4.) **“AREA OF SPECIAL FLOOD HAZARD”** – land in the flood plain subject to a one percent (1%), or greater, chance of being flooded in any given year, FIRM designation always includes the letters A or V.

- 5.) **“BASE FLOOD”** – flood having a one percent (1%), or greater, chance of being equaled or exceeded in any given year. Also referred to as the “100 year flood”.
- 6.) **“BASEMENT”**- any area of the building having its floor sub grade (below ground level) on all sides.
- 7.) **“BELOW-GRADE CRAWL SPACE”**- an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawl space to the top of the crawlspace foundation, does not exceed 4 feet at any point.
- 8.) **“BREAKAWAY WALL”** – a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- 9.) **“CRITICAL FACILITY”** – a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- 10.) **“DEVELOPMENT”** – any man-made change to improved or unimproved real estate, including, but not limited to, building or other structures, mining, dredging, filling, grading paving, excavation or drilling operations located within the area of special flood hazard.
- 11.) **“ELEVATED BUILDING”** – for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.
- 12.) **“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION”** – a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.
- 13.) **“EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION”** - preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- 14.) **“FLOOD” or “FLOODING”** – general, temporary condition of partial or complete inundation of normally dry land areas from:
- a.) overflow of inland or tidal waters and/or
  - b.) unusual, rapid accumulation of runoff of surface waters from any source.
- 15.) **“FLOOD INSURANCE RATE MAP” (FIRM)** – official Federal Insurance Administration map, delineating both areas of special flood hazards and risk premium zones applicable to the City.

16.) **“FLOOD INSURANCE STUDY”** – official report provided by the Federal Insurance Administration, including flood profiles, the Flood Boundary-Floodway Maps and water surface elevations of the base flood.

17.) **“FLOODWAY”** – channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise (0.0) in Base Flood Elevation.

18.) **“LOWEST FLOOR”** – lowest floor of lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for vehicle parking, building access or storage, in an area other than a basement, is not considered a building’s lowest floor, provided such enclosure is not constructed so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance, as set forth in **Section 4(2)A.1.**

19.) **“MANUFACTURED HOME”** – a sectional, transportable structure, built on a permanent chassis, designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for a period greater than 180 consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers and other similar vehicles.

20.) **“MANUFACTURED HOME PARK OR SUBDIVISION”** – a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

21.) **“NEW CONSTRUCTION”** – structures for which the “start of construction” commenced on or after the effective date of this ordinance.

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

23.) **“RECREATIONAL VEHICLE”** – a vehicle which is:

- a. Built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

24.) **“START OF CONSTRUCTION”** - includes substantial improvement, and means that date the building permit was issued, provided the actual construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not

occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

25.) **"STATE BUILDING CODE"** - the combined specialty codes.

26.) **"STRUCTURE"** - a walled, roofed building principally located above ground. Designation includes gas or liquid storage tanks.

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

28.) **"SUBSTANTIAL IMPROVEMENT"** - any repair, reconstruction or improvement of a structure, the cost of which equals, or exceeds, fifty percent (50%) of the market value of the structure, either:

a.) before the improvement or repair begins, or

b.) if the structure has been damaged and in the process of being restored, prior to occurrence of additional damage. For 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, regardless of alterations effect upon the external dimensions of the structure.

The term does not, however, include either:

a.) improvement of a structure to comply with existing state/local code specifications necessary to assure safe living conditions, or

b.) any alteration of a structure listed on the National or State Historic Registers.

29.) **"VARIANCE"** - a grant of relief from ordinance requirements, permitting construction in a manner otherwise prohibited.

30.) **"WATER DEPENDENT"** - a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

## **SECTION 2. GENERAL PROVISIONS:**

**2.1.) JURISDICTIONAL LANDS** - This ordinance shall apply to all designated special flood hazard areas within the jurisdiction of the City of Eagle Point.

**2.2.) BASIS FOR ESTABLISHMENT OF SPECIAL FLOOD HAZARD AREAS** - The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled **"The Flood Insurance Study (FIS) for Jackson County and Incorporated Areas"**, dated **May 3, 2011**, with accompanying Flood Insurance Maps is hereby adopted by reference and declared to be part of this ordinance. Study is on file at the Eagle Point City Hall, Eagle Point, Oregon.

**2.3.) COMPLIANCE** - No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and applicable regulations.



**2.4.) PENALTIES FOR NONCOMPLIANCE - As specified under Eagle Point Zoning Ordinance Article XXXIII - Administration, Enforcement and Adoption, Section 13.06 (Penalties), "Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing the violation of any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$200.00 or by imprisonment for a term not exceeding thirty (30) days, or both such fine and imprisonment. Such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this ordinance is committed or continued by such person, firm or corporation, and shall be punishable as herein provided for each such offense."**

**2.5.) ABROGATION AND GREATER RESTRICTIONS -** This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, whenever this ordinance conflicts with another ordinance, easement, covenant or deed restriction, the more stringent requirements shall prevail.

**2.6.) INTERPRETATION -** In the interpretation and application of this ordinance, all provisions shall be:

- a.) Considered as minimum requirements;
- b.) Liberally construed in favor of the governing body; and
- c.) Deemed neither to limit or repeal any other powers granted under state statutes.

**2.6.) WARNING AND DISCLAIMER OF LIABILITY -** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Flooding events are unpredictable, and the effects of same may be increased by various man-made or natural causes. This ordinance does imply that lands outside areas of special flood hazards or uses permitted within such areas will not be subject to high water events or damages from same. Nor shall this ordinance create a liability on the part of the City of Eagle Point, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages resulting from any reliance on this ordinance or any administrative decision lawfully made thereunder.

### **SECTION 3. ADMINISTRATION:**

**3.1) DEVELOPMENT PERMIT REQUIRED -** Development permit(s) shall be obtained before any construction or development begins within any designated flood hazard zone established in **Section 2. 2)**. Permit(s) shall be for all structures, including manufactured homes, and for all other development, including fill and other activities as set forth in "DEFINITIONS". Permit application shall be made on forms provided by the City of Eagle Point, and may include, but not be limited to, duplicate, scaled plans showing the nature, location, dimensions, elevations of the subject property; existing or proposed structures, fill, material storage, drainage facilities and location of the foregoing. Provision of the following, specific information shall be required:

- A. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures.
- B. Elevation, in relation to mean sea level, to which any structure has been floodproofed.
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the criteria set forth in **Section 4. 2.) B**.

D. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

**3.2.) ADMINISTRATIVE DESIGNATION** - The City Administrator, or his designee, is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

**3.3) ADMINISTRATIVE DUTIES** - Duties of the City Administrator, or his designee, shall include, but not be limited to:

**A. Permit Review**

1. Determine that all ordinance permit requirements have been satisfied.
2. Determine that all required approvals/permits have been obtained from other affected agencies.
3. If subject development is to be located in the floodway, determine that all encroachment provisions of **Section 4. 3.)** have been satisfied.

**B. Use of Other Base Flood Data**

When base flood elevation data has not been provided in accordance with **Section 2. 2.)**, BASIS FOR THE ESTABLISHMENT OF SPECIAL FLOOD HAZARD AREAS, the City Administrator, or his designee, shall obtain, review and reasonably utilize any base flood elevation and floodway data available from another source, in order to appropriately administer **Sections 4. 2.)A, SPECIFIC STANDARDS, Residential Construction, Section 4. 2.)B, SPECIFIC STANDARDS, Nonresidential Structures and Section 4. 3.)**, FLOODWAYS.

**C. Information Obtained and Maintained**

1. When base flood information is provided through the Flood Insurance Study or required as in **Section 3. 3.)B**, obtain and record actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures:
  - a) verify/record actual elevation (from mean sea level)
  - b) maintain required flood proofing certifications (**Section 3. 1.) c.**)
3. Maintain for public inspection all records relevant to this ordinance.

**D. Watercourse Alterations**

1. Notify adjacent communities, the Oregon State Water Resources Board, Department of Environmental Quality and Division of State Lands prior to any alteration or relocation of a watercourse, and submit notice of same to the Federal Insurance Administration.

2. Require provision of maintenance in any altered/relocated portion of said watercourse in such a manner as to guarantee flood carrying capacity will not be diminished.

#### **E. Interpretation of FIRM Boundaries**

Make interpretations, when required, as to exact location of special flood hazard boundaries. (EXAMPLE; Where there appears to be a conflict between a mapped boundary and actual field conditions). Any person contesting location of the boundary shall be given a reasonable opportunity to appeal the interpretation.

### **3.4.) VARIANCE PROCEDURE(S) -**

#### **A. Appeal Board**

1. The Planning Commission shall be the City's appellate body, and shall hear and render decision upon appeals and variance requests.
2. The Planning Commission is hereby designated as the City's Appeal Board for all matters related to this ordinance, and shall hear and render decision upon allegation of an error in any requirement, decision or determination made by the City Administrator, or his designee, in the enforcement or administration of this ordinance. Initiation of such appeal must be filed with the City, in writing, within 21 days of notice to applicant of City's decision or determination on a development permit request, and shall be accompanied by the applicable filing fee.
3. Those aggrieved by any decision of the Planning Commission, or any taxpayer, may appeal such decision to the Eagle Point City Council within 21 days of the Commission's decision. Said appeal shall be in writing, accompanied by the applicable fee.
4. In consideration of such appeals, the Planning Commission and/or City Council shall consider all technical evaluations, relevant factors, standards specified in other sections of this ordinance, and:
  - a) danger that materials may be swept onto other lands, to the injury of others;
  - b) danger to life and property due to flood/erosion damage;
  - c) susceptibility of the proposed facility and its contents to flood damage and the effect of such damage upon the individual owner;
  - d) community importance of services provided by the proposed facility;
  - e) facility's necessity of a waterfront location, where applicable;
  - f) availability of alternate locations, not as susceptible to flood/erosion;
  - g) compatibility of the proposed site with existing/anticipated development;
  - h) relationship of the proposed use to the Comprehensive Plan and Flood Plain

Management Program for the site

- i) emergency vehicle property access safety during flooding;
- j) expected heights, velocity, duration, rise rate and sediment transport of flood waters and effects of wave action, if applicable, as expected at the site; and,
- k) cost of providing governmental services during/after flood events, including maintenance/repair of public utilities and facilities (sewer, gas, electric and water systems, streets and bridges).

5. Generally, variances may be issued 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 built below the basic flood level, provided items a) - k), **Section 3. 4.) A. 4.** have been fully considered. As lot size increases beyond one-half acre, variance technical justification requirements shall increase.

6. Upon consideration of factors outlined in **Section 3. 4.) A. 4.**, and the purpose of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

7. The City Administrator, or his designee, shall maintain records of all appeal actions, reporting any variances to the Federal Insurance Administration upon request.

**B. Variance Conditions**

1. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on National or State Historical Registers, without regard to the procedures set forth in the remainder of this section.

2. Variances shall not be issued within any designated floodway if any increase in flood levels during the basic flood discharge would result.

3. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued upon:

- a) showing of good and sufficient cause;
- b) determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
- c) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public as identified in **Section 3. 4.) A.4.** or conflict with existing local laws and ordinances.

5. Variances as interpreted in the National Flood Insurance Program are based upon the general zoning law principal that they pertain to a physical piece of property; and not personal in nature and do not pertain to the structure, its inhabitants, economic or

financial circumstances. They primarily address small lots in residential neighborhoods. As such, variances from flood elevations should be extremely rare.

6. Variances may be issued for nonresidential buildings, under very limited circumstances, to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it may be determined that such action will have low damage potential, complies with all other variance criteria except **Section 3. 4.) A. 5., and otherwise complies with Sections 4. 1) A. and 4. 1) B. of the GENERAL STANDARDS.**

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

#### **SECTION 4. HAZARD REDUCTION PROVISIONS:**

**4.1.) GENERAL STANDARDS** - In all areas of special flood hazards the following standards shall be applied:

##### **A. Anchoring**

1. All new construction/substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure, or shall be designed to allow unobstructed passage of all floodwaters.

2. All manufactured homes must be similarly anchored. Anchoring methods may include, but not be limited to, perimeter foundations or use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" for additional techniques.)

##### **B. Permit Review**

In the absence of approved flood data (**Section 3. 3.) B.**, building permit applications shall be reviewed to assure that proposed construction will be reasonably safe from flooding. "Reasonable safety" shall be considered a local judgment which may include, but not be limited to, use of historical data, high water marks, photographs of past flooding, etc. Failure to properly elevate to an approved height above grade in these zones may result in higher insurance rates.

##### **C. Construction Materials and Methods**

1. All new construction and substantial improvements shall be built with flood resistant materials and utility equipment, using methods and practices designed to minimize flood damage.

2. All mechanical and electrical 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 flooding.

#### **D. Utilities**

1. New/replacement water supply systems shall be designed to minimize or eliminate infiltration of waters into the system.
2. New/replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of waters into the system 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.

#### **E. Subdivision Proposals**

1. All aspects of subdivision design and construction shall be engineered to minimize flood damage and/or exposure to same. This shall include, but not be limited to, public utilities, streets and storm drainage.
2. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be the responsibility of the developer to provide same to the City prior to development approval.

**4.2.) SPECIFIC STANDARDS** - In all areas of special flood hazards, where base flood elevation data has been provided as set forth in this ordinance, the following provisions are required:

##### **A. Residential Construction**

1. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of **24 inches (2')** above the base flood elevation.
2. Fully enclosed areas below the lowest floor that may be 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. Design for meeting this criterion must be certified by an Oregon registered engineer or must meet or exceed the following minimal criteria:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

##### **B. Nonresidential Construction**

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated

at or above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in **Section 3.3 B.**
- d. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in **4.2 A.2.**
- e. Applicants flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one foot below).

### C. Manufactured Homes

1. All manufactured homes to be placed or substantially improved on sites:
  - a. Outside of a manufactured home park or subdivision,
  - b. In a new manufactured home park or subdivision,
  - c. In an expansion to an existing manufactured home park or subdivision, or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; shall be elevated on a permanent foundation such that the finished floor of the manufactured home is elevated to a minimum **24 inches (2')** above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.
2. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's FIRM that are not subject to the above manufactured home provisions be elevated so that either:
  - a. The finished floor of the manufactured home is elevated to a minimum of **24 inches (2')** above the base flood elevation, or
  - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than **36**

**inches (3')** in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

**D. Recreational Vehicles**

1. Recreational vehicles placed on sites are required to either:
  - a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - c. Meet the requirements of **Section 4.2) C.** above, and the elevation and anchoring requirements for manufactured homes.

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

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 **Section 2** below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
2. The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
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 (2) 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 (4) feet at



any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

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 (5) feet per second for any crawlspace. For velocities in excess of five (5) feet per second, other foundation types should be used.

#### **ADDITIONAL INFORMATION:**

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

Eagle Point residents should be aware of increased insurance cost associated with below-grade crawlspaces. There is a charge added to the basic policy premium for a below-grade crawlspace.

#### **4.3.) NON-DESIGNATED REGULATORY FLOODWAY**

In areas of Eagle Point where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the AE zone on the community's FIRM, 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.

#### **4.4.) FLOODWAYS**

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

1. Except as provided in paragraph 3 below, prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

2. If **Section 4.4(1)** is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of **Section 4, PROVISIONS FOR FLOOD HAZARD REDUCTION.**

3. Projects for stream habitat restoration may be permitted in the floodway provided:

- a. The project qualifies for a Department of the Army, Portland District *Regional General Permit for Stream Habitat Restoration* (NWP-2007-1023); and,
- b. A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
- c. No structures would be impacted by a potential rise in flood elevation; and,
- d. An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.

4. New installation of manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling and Park Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions:

- a. If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or
- b. A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or the general welfare of the public and it meets the following criteria:
  1. As required by **44 CFR Chapter 1, Subpart 60.3(d)(3)**, it must be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or any property improvements (encroachments) will not result in any increase in flood levels during the occurrence of the base flood discharge;
  2. The replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46 cm) above the BFE as identified on the Flood Insurance Rate Map;
  3. The replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by the authority having jurisdiction;

4. The replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties;
5. The location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and
6. Any other requirements deemed necessary by the authority having jurisdiction.

#### 4.5.) CRITICAL FACILITY

Construction of new critical facilities in Eagle Point shall be, to the extent possible, located outside the limits any AE zone. Construction of new critical facilities shall be permissible within the AE if no feasible alternative site is available. Critical facilities constructed within the AE shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

#### 4.6.) ACCESSORY USES

All accessory buildings/uses shall be subject to the same flood zone criteria as any primary building/use.

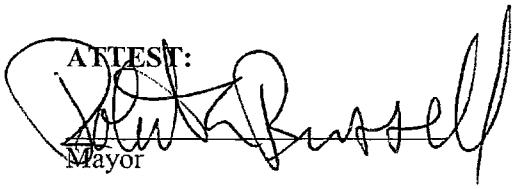
**SECTION 5. REPEAL OF PREVIOUS LEGISLATION - Ordinance No. 12-213** is hereby repealed in its entirety.

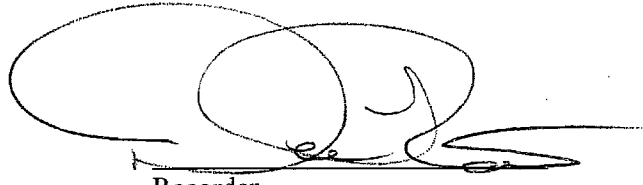
**SECTION 6. REPEAL OF PREVIOUS LEGISLATION - Ordinance No. 12-213** is hereby repealed in its entirety.

**SECTION 7. SEVERABILITY -** In the event any provision or clause of this ordinance is deemed to be void, invalid or unenforceable, that provision or clause shall be severed from the remainder of this ordinance so as to not cause the invalidity or unenforceability of the remainder of this ordinance. In that event, all remaining clauses and provisions shall continue in full force and effect.

**SECTION 8. EFFECTIVE DATE -** This Ordinance shall become effective thirty (30) days after its adoption (**February 26, 2011**). For the purposes of Flood Zone administration and regulating development in designated flood zones, the **May 3, 2011 FIRM Maps, Flood Insurance Study** and accompanying amendments the **Comprehensive Plan Land Use and Zoning Maps** reflecting the specific flood zone overlays shall, likewise, become effective within the corporate boundaries of Eagle Point on **May 3, 2011**.

**PASSED** by the Council and signed by me in open session in authentication of its passage this **25th** day of **January, 2011**.

ATTEST:  
  
Mayor

  
Recorder

Planning Dept.

P.O. Box 779

Seaside Point OR 97524



OPENED IN ERROR  
OREGON DEPT OF AGRICULTURE

PLAN AMENOMENT SPECIALIST

DLCD

635 CAPITOL ST. NE #150

SALEM OR 97301-2540