



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

8/13/2010

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

FROM: Plan Amendment Program Specialist

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

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, August 26, 2010

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

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

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

Cc: Mary Mitchell, City of Lyons
Gloria Gardiner, DLCD Urban Planning Specialist
Chris Shirley, FEMA Specialist
Steve Oulman, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

AUG 6 2010

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

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

Jurisdiction: City of Lyons

Local file number: Community # 410142

Date of Adoption: 7.27.10

Date Mailed: 7.28.10

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

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Adoption of new floodplain ordinance, floodplain study, and floodplain maps in order to comply with FEMA requirements. The ordinance is attached and the floodplain maps are incorporated by reference as "The Flood Insurance Study for Linn County, Oregon and Incorporated Areas dated September 29, 2010"

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-10 (18291) [16261]

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

DLCD and DHS/FEMA

Local Contact: Mary Mitchell

Address: 449 5th St.

City: Lyons

Zip: 97358

Phone: (503) 859-2167 Extension:

Fax Number: 503-859-5167

E-mail Address: mmitchell@wavecable.com

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

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

CITY OF LYONS

Ordinance No. P1-2010

An Ordinance Amending the City's Floodplain Management Plan, and Declaring an Emergency

WHEREAS, the City of Lyons adopted its original Flood Damage Prevention Ordinance, Ordinance #P10-30, on November 3rd, 1981 which was found to be in compliance with statutory regulation in place at that time; and

WHEREAS, the City of Lyons subsequently adopted its current Flood Damage Prevention Ordinance, Ordinance #P10-40, on March 9th, 1988 which was found to be in compliance with statutory regulation in place at that time; and

WHEREAS, on December 15, 1981, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs); the areas subject to inundation by the base (1-percent-annual-chance) flood in City of Lyons; and

WHEREAS, FEMA has recently completed a re-evaluation of flood hazards in the City of Lyons and prepared a Flood Insurance Study (FIS) report reflecting those findings; and

WHEREAS, now that the FIS is complete, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended. Prior to the effective date of the FIS Report and the FIRM, the City of Lyons is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3 (c) of the NFIP regulations (44 CFR 59, etc.); and

WHEREAS, these standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature; and

WHEREAS, communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a); and

WHEREAS, the new FIS report and FIRM for the City of Lyons will become effective on September 29, 2010; and

WHEREAS, the Planning Commission, after proper noticing, held a public hearing on June 29, 2010, formally recommending approving the ordinance to the Lyons City Council; and

WHEREAS, the Lyons City Council, after proper noticing, conducted a formal hearing on July 27, 2010, formally approving and adopting Ordinance P1-2010;

NOW THEREFORE, THE CITY OF LYONS ORDAINS AS FOLLOWS:

1. Amendment. Ordinance No. P10-40 and the corresponding Code Section, Chapter 15.10, are hereby amended to provide as follows:

Chapter 15.10

Flood Damage Prevention

Sections:

Article I. Statutory Authorization, Findings of Fact, Purpose, and Objectives

- 15.10.010 Statutory authorization.
- 15.10.020 Findings of fact.
- 15.10.030 Statement of purpose.
- 15.10.040 Methods of reducing flood losses.

Article II. Definitions

- 15.10.050 Definitions.

Article III. General Provisions

- 15.10.060 Lands to which this chapter applies.
- 15.10.070 Basis for establishing the areas of special flood hazard.
- 15.10.080 Penalties for noncompliance.
- 15.10.090 Abrogation and greater restrictions.
- 15.10.100 Interpretation.
- 15.10.110 Warning and disclaimer of liability.

Article IV. Administration

- 15.10.120 Establishment of development permits.
- 15.10.130 Designation of the city manager.
- 15.10.140 Duties and responsibilities of the city manager.

Article V. Provisions for Flood Hazard Reduction

- 15.10.150 General standards.
- 15.10.160 Specific standards.
- 15.10.170 Encroachments.

Article I. Statutory Authorization, Findings of Fact, Purpose, and Objectives

15.10.010

Statutory authorization.

The Legislature of the State of Oregon has in ORS Chapter 197 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 council of city of Lyons, Oregon, does ordain as follows. [Ord. P10-40 § 1.1, 1988.]

15.10.020

Findings of fact.

A. The flood hazard areas of the City of Lyons are subject to periodic inundation which could result in loss of life and property, affect the health and safety of our citizens, and cause 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 a greater than normal volume of water and by the cumulative effects of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. [Ord. P10-40 § 1.2, 1988.]

15.10.030

Statement of purpose.

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

- A. To protect human life and health;
- B. To minimize expenditure of public money and costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- 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;
- 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. [Ord. P10-40 § 1.3, 1988.]
- I. To 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.

15.10.040

Methods of reducing flood losses.

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

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

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

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

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

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas. [Ord. P10-40 § 1.4, 1988.]

Article II. Definitions

15.10.050

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 city council’s interpretation of any provision of this chapter or a request for a variance.

“Area of shallow flooding” means a designated AO or AH Zone on the flood insurance rate map (FIRM). 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 is characterized as sheet flow and AH indicates ponding.

“Area of special flood hazard” means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.” Designation on maps always includes the letters A or V.

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

“Basement” means the portion of a structure with its floor sub grade (below ground level) on all sides. “Building Codes” means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

“Development” means any 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.

“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.

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

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

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

“Historic Structure” means a structure that is:

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

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

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

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

- i. By an approved state program as determined by the Secretary of the Interior, or;
- ii. Directly by the Secretary of the Interior in states without approved programs.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable design requirements of the state building code.

“Manufactured Dwelling” means a structure, transportable in one or more sections built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Dwelling” does not include a “Recreational Vehicle.”

“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.

“New construction” means structures for which the “start of construction” commenced on or after the effective date of the ordinance, and includes subsequent substantial improvements to the structure.

“Recreational Vehicle” means a vehicle that is:

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

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

“Structure” means a walled and roofed building, a manufactured dwelling, or a gas or liquid storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of its market value before the damage occurred.

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

- (1) The appraised real market value of the structure prior to the start of the initial repair or improvement, or
- (2) In the case of damage, the appraised real market value of the structure prior to the damage occurring. The term does not include either:
 - (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (b) Alteration of a Historic Structure provided that the alteration will not preclude the structure's continued designation as a Historic 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. [Ord. P10-40 § 2.0, 1988.]

Article III. General Provisions

15.10.060

Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of city of Lyons. [Ord. P10-40 § 3.1, 1988.]

15.10.070

Basis for establishing the areas of special flood hazard.

The Area of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Linn County, Oregon and its Incorporated Areas, dated September 29, 2010, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the Lyons City Hall at 449 5th Street, Lyons, Oregon.

15.10.075

Coordination with building codes.

Pursuant to the requirement established in ORS 455 that the City of Lyons administers and enforces the Building Codes, the City Council of Lyons does hereby acknowledge that the Building Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Building Codes. *[ORS 455 establishes statewide building code in Oregon]*

15.10.080

Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000, or imprisoned for not more than one year, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Lyons from taking such other lawful action as is necessary to prevent or remedy a violation. [Ord. P10-40 § 3.3, 1988.]

15.10.090

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, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. P10-40 § 3.4, 1988.]

15.10.100

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 state statutes. [Ord. P10-40 § 3.5, 1988.]

15.10.110

Warning, and disclaimer of liability and severability.

A. 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 city of Lyons, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. [Ord. P10-40 § 3.6, 1988.]

B. 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.

Article IV. Administration

15.10.120

Establishment of development permit.

A. Development Permit Required. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in LMC 15.10.070. The permit shall be for all structures including manufactured homes, as set forth in LMC 15.10.050, Definitions, and for all development including fill and other activities, also as set forth in LMC 15.10.050, Definitions. Any Floodplain Development Permit that requires an engineering certification or engineering analysis, calculations or modeling to process shall be considered a land use action requiring a quasi-judicial land use hearing. [LUBA No. 2009-007 and ORS 197.763]

B. Application for Development Permit. Application for a development permit shall be made on forms furnished by the city manager 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:

1. Elevation, in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been floodproofed;
3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in LMC 15.10.160(B); and
4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. [Ord. P10-40 § 4.1, 1988. Amended during 2006 recodification.]

5. Applicants of proposed projects that increase the Base Flood Elevation more than one foot shall obtain from FEMA a Conditional Letter of Map Revision before the project may be permitted;
6. In areas within AE Zones on the Federal Insurance Rate Map with a Base Flood Elevation 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.
7. 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, [44 CFR Part 60.3(b)(5):

 - a. For elevated buildings and structures in Areas of Special Flood Hazard, the as-built elevation of the lowest floor, including basement or where no base flood elevation is available the height above highest adjacent grade of the lowest floor, and;
 - b. For buildings and structures that have been floodproofed, the elevation to which the building or structure was floodproofed.
8. Expiration of Floodplain Development Permit
 - a. A Floodplain Development Permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion. [44 CFR 59.1]
 - b. Commencement of work includes start of construction, when the permitted work requires a building permit. [44 CFR 59.1]

15.10.130

Designation of the city manager.

The city manager, or their designee, is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. [Ord. G1-2006 § 24, 2006; Ord. P10-40 § 4.2, 1988. Amended during 2006 recodification.]

15.10.140

Duties and responsibilities of the city manager.

Duties of the city manager shall include, but not be limited to:

A. Permit Reviews.

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;
2. Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard;
3. Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this ordinance;
4. Interpret Areas of Special Flood Hazard boundaries, provide available flood hazard information, and provide Base Flood Elevations, where they exist;

5. Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be maintained on file;
6. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of LMC 15.10.170 are met;
7. When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other authoritative source in order to administer the provisions of this ordinance;
8. When Base Flood Elevations or other engineering data are not available from an authoritative source, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding; *Note: Oregon Residential Specialty Code R324.1.3 authorizes the building official to require the applicant to determine a base flood elevation where none exists.*
9. Issue Floodplain Development Permits when the provisions of this ordinance have been met, or disapprove the same in the event of noncompliance;
10. Coordinate with the Building Official to assure that applications for building permits comply with the requirements of this ordinance;
11. Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no Base Flood Elevation is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures;
12. Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no Base Flood Elevation is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect;
13. Ensure that all records pertaining to the provisions of this ordinance are permanently maintained in the office of the citymanager or his/her designee and shall be open for public inspection;
14. Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with a the floodplain development permit and this ordinance, and verify that existing buildings and structures maintain compliance with this ordinance;
15. Coordinate with the Building Official to inspect areas where buildings and structures in Areas of Special Flood Hazard have been damaged,

regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure; and
16. Make Substantial Improvement or Substantial Damage determinations.

B. Use of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with LMC 15.10.070, Basis for establishing the areas of special flood hazard, the city manager shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer LMC 15.10.160, Specific standards, and LMC 15.10.170,

C. Encroachment Information.

1. Where base flood elevation data is provided through the flood insurance study or required as in subsection B. of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level); and
 - b. Maintain the floodproofing certifications required in LMC 15.10.120(B).
3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries.

Make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in LMC 15.10.150. [Ord. G1-2006 § 24, 2006; Ord. P10-40 § 4.3, 1988. Amended during 2006 recodification.]

Article V. Provisions for Flood Hazard Reduction

15.10.150

General standards.

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

A. Anchoring.

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

B. Construction 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.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Site Improvements and Subdivisions.

1. All proposed new development and subdivisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.
2. Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less.
3. New development and all subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
4. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
5. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).
6. On-site waste disposal systems shall be located and constructed to avoid functional impairment or contamination from them during flooding.

E. Review of Building Permits.

Where elevation data is not available either through the flood insurance study or from another authoritative source (LMC 15.10.140(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. [Ord. P10-40 § 5.1, 1988.]

15.10.160

Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in LMC 15.10.070, Basis for establishing the areas of special flood hazard, or LMC 15.10.140(B), Use of Other Base Flood Data, 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 or above base flood elevation.

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

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

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

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

B. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in LMC 15.10.140 C. 2.

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection A. 2. of this section.

5. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed

level (e.g., a building constructed to the base flood level will be rated as one foot below that level).

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

D. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zone A1 – 30, AH, and AE shall be elevated on a permanent foundation, such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system in accordance with the provisions of LMC 15.10.150(A)(2). [Ord. P10-40 § 5.2, 1988.]

1. New and replacement manufactured dwellings must meet the requirement of the building codes; and

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

E. Recreation 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, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or

3. Meet all the requirements of Chapter IV, Section F: Manufactured Dwellings, including the anchoring and elevation requirements.

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

1. Be located and constructed to minimize flood damage;

2. Be designed so as not to impede flow of flood waters under base flood conditions;

3. If located in a floodway, meet the limitations of Chapter IV, Section B of this ordinance;

4. Be anchored to prevent flotation or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

5. Be constructed of flood damage-resistant materials; and

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

15.10.170

Encroachments.

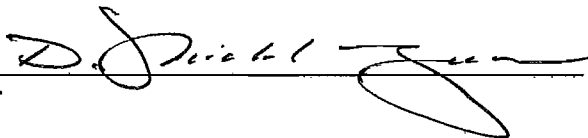
The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point. [Ord. P10-40 § 5.3, 1988.]

2. Repeal. All other ordinances or parts thereof, in conflict herewith are hereby repealed.

3. Severability. If any provision, section, sentence or phrase of this Ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this Ordinance.

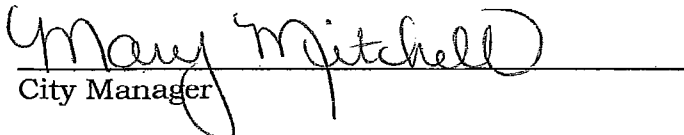
4. Effective Date. This Ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this Ordinance shall take effect immediately upon passage by the Council.

Approved this 27th day of July, 2010, by the City Council for the City of Lyons, Linn County, Oregon.



Mayor

ATTEST:



City Manager

City of Lyons
449 5th Street
Lyons, OR 97358
ADDRESS SERVICE REQUESTED



CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Attn: Plan Amendment Specialist
— Steve Lucker
DLCD
635 Capitol St. NE Suite 150
Salem, OR 97301-2540