



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

05/12/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Rogue River 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: Tuesday, May 24, 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: Lois DeBenedetti, City of Rogue River
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 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

In person electronic mailed

DATE STAMP

DEPT OF

MAY 05 2011

LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

Jurisdiction: **City of Rogue River**

Local file number: **OA 2010-12-17-2010**

Date of Adoption: **5/3/2011 effective date**

Date Mailed: **5/3/11**

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:

Adoption of an Ordinance Establishing Regulations to prevent flood damage within the City of Rogue River, adopting related FIRM maps; D-FIRM maps and "The flood Insurance Study (FIS) for Jackson County and Incorporated areas and repealing Ordinance No. 87-152-0

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

Does the Adoption differ from proposal? No

Applicable statewide planning goals:

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

Local Contact: **Lois DeBenedetti**

Phone: **(541) 582-4401** Extension: **106**

Address: **P. O. Box 1137**

Fax Number: **541-582-0937**

City: **Rogue River, Or**
river.or.us

Zip: **97537-**

E-mail Address: **ldebenedetti@ci.rogue-**

DLCD file No. 001-10 (18657) [16637]

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

Council Bill
No. 11-2194

ORDINANCE NO. 11-372-O

AN ORDINANCE ESTABLISHING REGULATIONS TO PREVENT FLOOD DAMAGE WITHIN THE CITY OF ROGUE RIVER, OREGON, ADOPTING RELATED FIRM MAPS AND "THE FLOOD INSURANCE STUDY (FIS) FOR JACKSON COUNTY AND INCORPORATED AREAS" AND REPEALING ORDINANCE NO. 87-152-O.

WHEREAS, the State of Oregon has, pursuant to state law and the municipal home rule provisions of the state constitution, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and,

WHEREAS, portions of the City of Rogue River, Oregon (hereinafter referred to as the "City") lie within federally mapped flood hazard zones; and,

WHEREAS, the flood hazard areas of the City are subject to periodic inundation which may result in loss of life and property, health, and causes safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare; 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, elevated or otherwise protected from flood damage also contribute to flood loss; and,

WHEREAS, it is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by the following provisions which are designed;

- A. To protect human life and health;
- B. To minimize expenditure of public funds and the necessity of 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 negative economic impacts of prolonged business interruptions;
- E. To minimize damage to public facilities and utilities (water, gas, power, phone, sewer, streets and bridges) in flood hazard areas;
- F. To maintain a stable tax base by ensuring sound use and development of flood hazard areas to minimize potential future blight areas;
- G. To ensure that potential buyers are notified that a property is located in an area of specific flood hazard;

H. To ensure that property owners in said areas assume responsibility for appropriate development standards, and

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; and,

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

A. 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;

B. Requiring that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction;

C. Reserving and restoring natural floodplains, stream channels, and natural protective barriers which carry and store flood waters, and;

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

E. Preventing or regulating construction of flood barriers which will unnaturally divert flood waters or increase flood hazards in other areas; and,

F. Coordinating and supplementing the provisions of the State Building Code with local land use and development Ordinances; now, therefore,

THE CITY OF ROGUE RIVER 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.

“ACCESSORY STRUCTURE”- a structure on the same or adjacent parcel as the principal structure, the use of which is incidental and subordinate to the principal structure. A separate insurable building should not be classified as an accessory or appurtenant structure.

“ALTERATION OF A WATERCOURSE”- includes, but is not limited to, any dam, culvert, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area or capacity, which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“APPEAL” - a request for review of the City Administrator’s interpretation of any provision of this Ordinance or request for a variance.

“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: Rogue River has no areas designated as AO or AH.*

“AREA OF SPECIAL FLOOD HAZARD” - land in the floodplain 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. *NOTE: Rogue River has no areas designated as V.*

"BASE FLOOD" - flood having a one(1%) percent, or greater, chance of being equaled or exceeded in any given year. Also referred to as the one-hundred "100 year flood."

"BASE FLOOD ELEVATION" (BFE) - the water surface elevation of the base flood, usually in feet, in relation to a specified datum the National Geodetic Vertical Datum of 1929 (NGVD); the North American Vertical Datum of 1988 (NAVD 88); or other datum as specified. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest zero- point-one (0.1') foot.

"BASEMENT" - any area of the building having its floor sub grade (below ground level) on all sides.

"BELOW-GRADE CRAWL SPACE" - an enclosed area below the Base Flood Elevation in which the interior grade is not more than two (2') 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 four (4') feet at any point.

"BUILDING" - a building or structure subject to the State Building Codes.

"BUILDING CODES"- the combined specialty codes adopted by the State of Oregon.

"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.

"CRITICAL FACILITY" - a facility that is critical for the health and welfare of the population and is especially important following hazard events. This is a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, special occupancy structures, essential facilities, schools, nursing homes, hospitals, police, fire and emergency response installations, transportation systems, lifeline utility systems, high potential loss facilities and installations which produce, use or store hazardous materials or hazardous waste.

"DATUM" - The vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points has been the National Geodetic Vertical Datum of 1929 (NAVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).

"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. Work exempt from the Oregon Specialty Codes requires a Floodplain Development Permit unless specifically exempted by definition in this Ordinance.

"DIGITAL FIRM (DFIRM)," - Digital Flood Insurance Rate Map depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

"ENCROACHMENT" - the advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a floodway, which may impede or alter the flow capacity of a floodplain.

"ELEVATED BUILDING" - a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

"ESSENTIAL FACILITY" or "CRITICAL FACILITY":

- A. Hospitals and other medical facilities having surgery and emergency treatment areas;
- B. Fire and police stations;
- C. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
- D. Emergency vehicle shelters and garages;
- E. Structures and equipment in emergency-preparedness centers;
- F. Standby power generating equipment for essential facilities; and
- G. Structures and equipment in government communication centers and other facilities required for emergency response.

"EXISTING BUILDING OR STRUCTURE" - a structure for which the "start of construction" commenced before January 2, 1981.

"FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - the agency with the overall responsibility for administering the National Flood Insurance Program.

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

"EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"FLOOD" or "FLOODING" - 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.

"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.

"FLOOD INSURANCE STUDY" (FIS) - official report provided by the Federal Insurance Administration, including flood profiles, the Flood Boundary-Floodway Maps and water surface elevations of the base flood.

"FLOODPLAIN DEVELOPMENT PERMIT" - a permit is required for any construction or development within any area of special flood hazard. This permit is separate from a building permit.

"FLOODWAY (Regulatory 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.

"HIGHEST ADJACENT GRADE (HAG)" - the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure.

"HISTORIC STRUCTURE" - 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:

E. By an approved state program as determined by the Secretary of the Interior, or;

F. Directly by the Secretary of the Interior in states without approved programs.

"LATERAL ADDITION" - an addition that requires a foundation to be built outside of the foundation footprint of the existing building.

"LETTER OF MAP CHANGE (LOMC)" - an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

A. "LETTER OF MAP AMENDMENT (LOMA)" - a revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area;

B. "LETTER OF MAP REVISION (LOMAR)" - a revision based on technical data usually due to manmade changes, showing changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure or parcel has been elevated by fill above the Base Flood Elevation and is excluded from the special flood hazard area;

C. "CONDITIONAL LETTER OF MAP REVISION (CLOMAR)" - formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does *not* amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

"LOWEST FLOOR" - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the State Building Code. The lowest floor of a manufactured dwelling shall be the bottom of the longitudinal chassis frame beam in A zones.

"MANUFACTURED DWELLING or MANUFACTURED HOME" - a structure, transportable in one or more sections, which is built on a permanent chassis and is

designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle."

"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.

"MEAN SEA LEVEL"- for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which Base Flood Elevations shown on a community's FIRM are referenced.

"NEW CONSTRUCTION" - structures for which the "start of construction" commenced on or after the effective date of this Ordinance, and includes subsequent substantial improvements to the structure.

"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.

"RECREATIONAL VEHICLE" - a vehicle that is:

- A. Built on a single chassis;
- B. Four-hundred (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 designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"SPECIALTY CODES" - 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. The combined specialty codes are often referred to as building codes.

"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 one-hundred-eighty (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 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.

"STATE BUILDING CODE" - the combined specialty codes adopted by the State of Oregon.

"STRUCTURE" - a walled, roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

"SUBSTANTIAL DAMAGE" - damage of any origin sustained by a structure whereby

the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

"SUBSTANTIAL IMPROVEMENT" - is the reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "structural damage," regardless of the actual work performed. The market value of the structure should be:

A. The appraised real market value of the structure prior to the start of the initial repair or improvement, or

B. In the case of damage, the appraised real market value of the structure prior to the damage occurring. The term does not include either:

C. 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

D. Alteration of a Historic Structure provided that the alteration will not preclude the structure's continued designation as a Historic Structure.

"VARIANCE" - is a grant of relief by the governing body from a requirement of this Ordinance.

"VERTICAL ADDITION" - the addition of a room or rooms on top of an existing building.

"VIOLATION" - is the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance is presumed to be in violation until that documentation is provided.

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

"WATER DEPENDENT USE" - a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, ship building, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

"WATER SURFACE ELEVATION"- the height, in relation to a specific datum, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

SECTION 2. GENERAL PROVISIONS:

A. **JURISDICTIONAL LANDS** - This Ordinance shall apply to all designated special flood hazard areas within the jurisdiction of the City of Rogue River. Nothing in this Ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning Ordinance or State Building Codes.

B. **BASIS FOR ESTABLISHMENT OF SPECIAL FLOOD HAZARD AREAS** - The Area of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Jackson County and Incorporated Areas, dated May 3, 2011, 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 Rogue River City

Hall, 133 Broadway, Rogue River, Oregon.

C. COORDINATION WITH BUILDING CODES - Pursuant to the requirement established in ORS 455 the City of Rogue River administers and enforces the State Building Codes. The City of Rogue River's governing body does hereby acknowledge that the State 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 State of Oregon Specialty Codes.

D. 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.

E. PENALTIES FOR NONCOMPLIANCE - Violations of the provisions of this Ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) for each violation. Any person, firm or corporation, whether as principal, agent, employee, or otherwise 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, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Rogue River from taking such other lawful action as is necessary to prevent or remedy any violation.

F. 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.

G. INTERPRETATION - In the interpretation and application of this Ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit or repeal any other powers granted under state statutes and rules including the State Building Codes.

H. 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 Rogue River, any officer, agent 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 hereunder.

SECTION 3. ADMINISTRATION:

A. DEVELOPMENT PERMIT REQUIRED - Floodplain Development Permit(s) shall be obtained before any construction or development begins within any Areas of Special Flood Hazard as established herein:

1. 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."

2. Permit application shall be made on forms provided by the City of Rogue River, and may include, but not be limited to, triplicate, 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.

3. Any Floodplain Development Permit that requires engineering analysis, calculations or modeling to establish a Base Flood Elevation or regulatory Floodway, or to demonstrate no increase to Base Flood Elevation in an established regulatory floodway shall be considered a land use action requiring a quasi-judicial land use hearing. [LUBA No. 2009-007 and ORS 197.76]

4. Replacement of public bridges and/or culverts located in the floodway that necessitate a "No-rise" Certification are allowed through a Type I Review process, provided the replacement bridge/culvert is located along a similar or parallel alignment and contributes no additional material to the floodway.

B. APPLICATION FOR DEVELOPMENT PERMIT - Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the planning department prior to starting development activities.

Plans should be submitted in triplicate, 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. Application Stage

(a) Plans in triplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities;

(b) Delineation of flood hazard areas, floodway boundaries including Base Flood Elevations, or flood depth in AO zones, where available;

(c) For all proposed structures, elevation in relation to the highest adjacent grade and the Base Flood Elevation, or flood depth in AO zones, of the:

i. Lowest enclosed area, including crawlspace or basement floor;

ii. Bottom of the lowest horizontal structural member in coastal high hazard areas (V Zones);

iii. Top of the proposed garage slab, if any, and;

iv. Next highest floor

(d) Locations and sizes of all flood openings in any proposed building;

(e) Elevation to which any non-residential structure will be flood-proofed;

(f) Certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet

the flood-proofing criteria of the NFIP and State of Oregon Building Codes;

(g) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;

(h) Submit an Elevation Certificate for proposed structures (based on construction drawings) at the time of application for a floodplain development permit; for buildings under construction at the time of the inspection required by the Oregon Residential Specialty Code, Section R 109, and upon building completion prior to issuance of a Certificate of Occupancy.

2. Construction Stage

(a) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction;

(b) Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

3. Certificate of Occupancy

(a) In addition to the requirements of the State of Oregon Building Codes pertaining to a 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,

i. For elevated buildings and structures in non-coastal Areas of Special Flood Hazard (A zones), 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;

ii. For buildings and structures that have been floodproofed, the elevation to which the building or structure was floodproofed.

(b) Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a Certificate of Occupancy until such deficiencies are corrected.

4. Expiration of Floodplain Development Permit

(a) A floodplain development permit shall expire one-hundred-eighty (180) days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion,

i. Except for replacement of public bridges and/or culverts, which shall expire after twelve (12) months, and can be extended upon written request.

(b) Commencement of work includes start of construction, when the permitted work requires a building permit.

C. 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.

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

1. Permitting

(a) Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard or other flood-prone areas;

(b) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this Ordinance;

(c) Interpret flood hazard area boundaries, provide available flood hazard information, and provide Base Flood Elevations, where they exist;

(d) 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.

(e) Review all development permit applications to determine if the proposed development is located in the Floodway, and if so, ensure that the encroachment standards of this Ordinance are met.

(f) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory Floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation.

(g) Issue floodplain development permits when the provisions of this Ordinance have been met, or disapprove the same in the event of noncompliance;

(h) Coordinate with the Building Official to assure that applications for building permits comply with the requirements of this Ordinance;

(i) Obtain, verify, and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures.

(j) Obtain, verify, and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, to which any new or substantially improved buildings or structures have been flood proofed. When floodproofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect;

(k) Ensure that all records pertaining to the provisions of this Ordinance are permanently maintained in the office of the City Recorder or his/her designee and shall be open for public inspection.

(l) 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;

(m) Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas 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;

(n) Make Substantial Improvement or Substantial Damage determinations based on criteria set forth in this Ordinance.

2. Use of Other Base Flood Data: When Base Flood Elevation data has not been provided (A Zones), 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.

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.

Oregon Residential Specialty Code R324.1.3 authorizes the Building Official to require the applicant to determine a Base Flood Elevation where none exists.

3. Information Obtained and Maintained

(a) When base flood information is provided through the Flood Insurance Study or required as in Section 3.D.2, 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.

(b) For all new or substantially improved flood proofed structures:
i. Verify/record actual elevation (from mean sea level)
ii. Maintain required flood proofing certifications

(c) Maintain for public inspection all records pertaining to the provisions of this Ordinance.

4. Watercourse Alterations

(a) Development shall not diminish the flood carrying capacity of a watercourse. If any watercourse will be altered or relocated as a result of the proposed development, the applicant must submit certification by a registered professional engineer that the flood carrying capacity of the water course will not be diminished.

(b) Applicant will be responsible for obtaining all necessary permits from governmental agencies from which approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Division of State Lands regulations.

(c) If the altered or relocated watercourse is part of an Area of

Special Flood Hazard, the applicant shall notify adjacent communities and Oregon Department of Land Conservation and Development prior to any alteration or relocation of the watercourse. Evidence of notification must be submitted to the Floodplain Administrator and to the Federal Emergency Management Agency.

(d) The applicant shall be responsible for ensuring necessary maintenance for the altered or relocated portion of the watercourse is provided so that the flood carrying capacity will not be diminished.

5. Requirement to Submit New Technical Data

(a) Within six months of project completion, an applicant who obtains an approved Conditional Letter of Map Revision from FEMA, or whose development alters a watercourse, modifies floodplain boundaries or Base Flood Elevations, shall obtain from FEMA a Letter of Map Revision reflecting the as-built changes to the FIRM.

(b) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(c) Applicants shall be responsible for all costs associated with obtaining a Conditional Letter of Map Amendment or Letter of Map Revision from FEMA.

(d) The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgment Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met all applicable requirements of this Ordinance.

6. Non-Conversion of Enclosed Areas below the Lowest Floor: To ensure that enclosed areas below the lowest floor continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use for human habitation, the Floodplain Administrator shall:

(a) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;

(b) Require applicant to enter into a "NON-CONVERSION DEED DECLARATION FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS" or equivalent with the City of Rogue River. The deed declaration shall be recorded with the Jackson County Recorder's Office. The deed declaration shall be in a form acceptable to the Floodplain Administrator and County Counsel.

7. Interpretation of FIRM Boundaries: Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 (variance) of the Rules and Regulations of the National Flood Insurance Program.

E. VARIANCE PROCEDURES:

1. Variance

(a) An application for a variance must be submitted to the City of Rogue River on the form provided by the city and include at a minimum the same information required for a development permit and an explanation for the basis for the variance request.

(b) The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

(c) Upon consideration of the criteria in Section 3 E.2 (Criteria for Variances) and the purposes of this Ordinance, the City may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

(d) The Floodplain Administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

2. Criteria for Variances

(a) Variances shall not be issued within a designated regulatory Floodway if any increase in flood levels during the base flood discharge would result.

(b) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items i thru xi in Section 3.E.2(h) have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

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

(d) Variances shall only be issued upon a:

- i. Showing of good and sufficient cause;
- ii. Determination that failure to grant the variance would result in exceptional hardship to the applicant, and;
- iii. 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 on or victimization of the public or conflict with existing local laws or Ordinances.

(e) Variances may be issued for a water dependent use provided that the:

- i. Criteria of paragraphs 1(a) through 1(d) of this section are met, and;
- ii. Structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(f) Variances may be issued for the reconstruction, rehabilitation, or restoration of Historic Properties, without regard to the procedures set forth in this section.

(g) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(h) In passing upon such applications, the City of Rogue River shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and the:

- i. Danger that materials may be swept onto other lands to the injury of others;
- ii. Danger to life and property due to flooding or erosion damage;
- iii. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- iv. Importance of the services provided by the proposed facility to the community;
- v. Necessity to the facility of a waterfront location, where applicable;
- vi. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- vii. Compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- ix. Safety of access to the property in times of flood for ordinary and emergency vehicles;
- x. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- xi. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

3. Variance Decision: The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the Base Flood Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

(a) 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.

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

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

(d) Variances shall only be issued upon:

- i. Showing of good and sufficient cause;
- ii. Determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
- iii. 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 or conflict with existing local laws and Ordinances.

(e) 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.

(f) 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, and complies with all other variance criteria

(g) 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.

4. Appeal Board

(a) The Planning Commission shall be the City's appellate body, and shall hear and render decision upon appeals and variance requests.

(b) 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 twenty-one (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.

(c) Those aggrieved by any decision of the Planning Commission, or any taxpayer, may appeal such decision to the Rogue River City Council within twenty-one (21) days of the Commission's decision. Said appeal shall be in writing, accompanied by the applicable fee.

(d) 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:

- i. Danger that materials may be swept onto other lands, to the injury of others;

- ii. Danger to life and property due to flood/erosion damage;
- iii. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage upon the individual owner;
- iv. Community importance of services provided by the proposed facility;
- v. Facility's necessity of a waterfront location, where applicable;
- vi. Availability of alternate locations, not as susceptible to flood/erosion;
- vii. Compatibility of the proposed site with existing/anticipated development;
- viii. Relationship of the proposed use to the Comprehensive Plan and Flood Plain Management Program for the site
- ix. Emergency vehicle property access safety during flooding;
- x. 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
- xi. 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).

SECTION 4. PROVISIONS FOR FLOOD HAZARD REDUCTION

- A. In all areas of special flood hazards the following standards shall be applied:
- 1. Site Improvements and Subdivisions
 - (a) All plans and permits for proposed new site improvements, subdivisions, and manufactured home parks shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes historical data, high water marks, photographs of past flooding, etc. 44 CFR Part 65.2 defines "reasonably safe from flooding" as base flood waters will not inundate the land or damage structures ... and that any subsurface waters related to the base flood will not damage existing or proposed buildings
 - (b) Building lots shall have adequate buildable area outside of regulatory Floodways.
 - (c) Where Base Flood Elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments that contain at least fifty (50) lots or five (5) acres (whichever is less).
 - (d) Site improvements, subdivisions, and manufactured home parks shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize or eliminate damage and infiltration of floodwaters. Replacement public utilities and facilities such as sewer, gas, electric and water systems, likewise shall be sited and designed

to minimize or eliminate damage and infiltration of floodwaters.

(e) New and replacement on-site waste disposal systems and sanitary sewerage systems shall be located and constructed to avoid functional impairment, or discharges from them, 44 CFR Part 65.2 defines "reasonably safe from flooding" as base flood waters will not inundate the land or damage structures ... and that any subsurface waters related to the base flood will not damage existing or proposed buildings during flooding.

(f) Subdivisions and manufactured home parks shall have adequate drainage provided to reduce exposure to flood hazards.

2. Permit Review: In the absence of approved flood data, 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.

3. Construction Materials and Methods

(a) 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.

(b) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

(c) All mechanical including ductwork; electrical equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during flooding.

4. Utilities

(a) New/replacement water supply systems shall be designed to minimize or eliminate infiltration of waters into the system.

(b) New/replacement sanitary sewer systems shall be designed to minimize or eliminate infiltration of waters into the system and discharge from the systems into floodwaters.

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

5. Site Improvements and Subdivisions

(a) All plans and permits for proposed new site improvements, subdivisions, and manufactured home parks shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes historical data, high water marks, photographs of past flooding, etc.

(b) Building lots shall have adequate buildable area outside of regulatory Floodways.

(c) Where Base Flood Elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments that contain at least 50 lots or 5 acres (whichever is less).

(d) Site improvements, subdivisions, and manufactured home parks shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize or eliminate damage and infiltration of floodwaters. Replacement public utilities and facilities such as sewer, gas, electric and water systems, likewise shall be sited and designed to minimize or eliminate damage and infiltration of floodwaters.

(e) New and replacement on-site waste disposal systems and sanitary sewerage systems shall be located and constructed to avoid functional impairment, or discharges from them, during flooding.

(f) Subdivisions and manufactured home parks shall have adequate drainage provided to reduce exposure to flood hazards.

B. Building design and construction for buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of the Residential Specialty Code, the Manufactured Dwelling Installation Specialty Code, and the Structural Specialty Code.

1. Specific Building Design and Construction Standards for Non-coastal Residential Construction (A Zones):

(a) New construction and substantial improvement of residential structures located in non-coastal flood zones shall have the lowest floor, including basement, elevated a minimum of one-foot (1') above the Base Flood Elevation or three-feet (3') above highest adjacent grade where no BFE is defined, and;

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

i. A minimum of two openings on at least two (2) sides of the enclosed area and having a total net area of not less than one (1') square inch for every square foot of enclosed area subject to flooding shall be provided;

ii. The bottom of all openings shall be no higher than one (1') foot above grade, and;

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

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

(a) 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 4.B.2.(b) 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.

(b) 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 grade.

(c) 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 crawl space 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.

(d) 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.

(e) The interior grade of a crawlspace below the BFE must not be more than two (2') feet below the lowest adjacent exterior grade.

(f) 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.

(g) 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.

(h) 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.

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

Rogue River 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.

3. Specific Building Design and Construction Standards for Non-coastal, Nonresidential Construction: New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest

floor, including basement, elevated according to Table 2-1 the American Society of Civil Engineers, Flood Resistant Design and Construction Standard (ASCE 24); or, together with attendant utility and sanitary facilities, shall,

(a) Be floodproofed 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 Floodplain Administrator;

(d) Nonresidential structures that are elevated, not floodproofed, must meet residential standards described in Section 4, subsection B;

(e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one (1') foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1') foot below.)

4. Specific Building Design and Construction Standards for Manufactured Dwellings: In addition to Section 4 B 2(a) and (b) new, replacement, and substantially improved manufactured dwellings are subject to the following standards:

(a) If the manufactured dwelling is supported on solid foundation walls, the ground area reserved for the placement of a manufactured dwelling shall be a minimum of one (1') foot above BFE unless the foundation walls are designed to automatically equalize hydrostatic forces by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one (1") square inch for every square foot of enclosed area subject to flooding shall be provided;

(ii) The bottom of all openings shall be no higher than one (1') foot above grade, and;

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. [Manufactured Dwelling Installation Specialty Code, Definitions and Section 4-3.1(5) and NFIP 60.3(c)(5).]

(b) The bottom of the longitudinal chassis frame beam in A zones shall be at or above BFE [see definition of Lowest Floor in Manufactured Dwelling Installation Specialty Code, see (d) below.]

(c) The manufactured dwelling shall be anchored to prevent flotation collapse and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and; [44 CFR 60.3(c)(6).]

(d) Electrical crossover connections shall be a minimum of twelve (12") inches above BFE. [Manufactured Dwelling Installation Specialty Code 6-4.2(1).]

(e) Any building utility systems below the Manufactured Dwelling 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. Exception: Under-floor crossover ducts are not required to be elevated above the BFE.

5. Recreational Vehicles in All Areas of Special Flood Hazard, Recreational Vehicles That Are an Allowed Use or Structure under the Zoning Ordinance Must Either:

(a) Be on the site for fewer than one-hundred-eighty (180) consecutive days; or

(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 including the elevation and anchoring requirements for manufactured homes.

C. Zones with Base Flood Elevations but No Regulatory Floodway

1. In areas within Zones A1-30 and AE on the community's FIRM 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 (1') foot at any point within the community.

2. Applicants of proposed projects that increase the Base Flood Elevation more than one (1') foot shall obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted. As soon as possible, but no later than six (6) months after project completion, an application for a Letter of Map Revision (LOMR) shall be submitted by the applicant to FEMA. The applicant is responsible for paying any costs associated with the CLOMR and LOMR process.

D. Areas of Special Flood Hazard without Base Flood Elevations

1. When Areas of Special Flood Hazard have been provided but BFE or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic BFE and regulatory Floodway data available from a federal, state, or other source, in order to administer this Ordinance. If Base Flood Elevations are not available, Section 2. below shall apply.

2. In Areas of Special Flood Hazard without Base Flood Elevation Data:

(a) No encroachments, including structures or fill, shall be located in an Area of Special Flood Hazard within an area equal to the width of the stream or fifty (50') feet, whichever is greater, measured from the ordinary high water mark, unless a Base Flood Elevation is developed by a licensed professional engineer, or;

(b) The lowest floor of any building or structure, including manufactured dwellings, shall be elevated a minimum of three (3') feet above highest adjacent grade. Below grade crawlspaces are prohibited.

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

1. 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. Any fill permitted to be placed in the regulatory Floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.

3. Applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before an encroachment, including fill, new construction, substantial improvement, fences, or other development, in the regulatory Floodway is permitted that will cause any increase in the Base Flood Elevation unless the development causes a temporary encroachment and the conditions in EXCEPTIONS 1.(a)–(f) are satisfied.

EXCEPTIONS:

1. Temporary encroachments in the regulatory Floodway for the purposes of capital improvement projects (including bridges)¹ may be allowed even if the encroachment results in an increase in flood levels during the occurrence of the base flood discharge, and without obtaining a CLOMR², when:

¹ The permit should stipulate the days and dates the structure or other development will be on site. If a longer period is required, a new permit should be issued.

A flood warning system for the project should be in place to allow equipment to be evacuated from the site and placed outside the floodplain.

Placement of equipment in the floodway should be restricted to only that equipment which is absolutely necessary for the purposes of the project. All other accessory equipment and temporary structures (i.e. construction trailers) should be restricted from the floodway. Structures should be placed on site so that flood damages are minimized. The community may want to consider such things as anchoring construction trailers in case evacuation isn't practical.

The following conditions should be included in the permit:

Identification of the temporary changes to the floodplain under a 1% chance flood event (100-year flood)

Identification of all insurable structures affected by any increase in BFE during a 1% chance flood event (100-year flood)

Written notification to the applicant that they may be liable for any flood damages resulting from the temporary structure

The length of time the structure or encroachment will be allowed.

² No CLOMR/LOMR will be required because there is no need to modify the FIRM due to the temporary condition of the encroachment, but the community should disclose to all owners of insurable structures and all applicants for permits in the affected area that there is an increased risk of flooding for the duration of the temporary encroachment.

- (a) The project is limited as to duration with the days and dates that the structure or other development will be in the regulatory Floodway specified in the development permit;
 - (b) Accessory structures (i.e. construction trailers) are restricted from the regulatory Floodway;
 - (c) The project limits placement of equipment and material in the regulatory Floodway to that which is absolutely necessary for the purposes of the project;
 - (d) The project includes a flood warning system sufficient to allow equipment to be evacuated from the regulatory Floodway and placed outside the area of special flood hazard in the event of imminent flood;
 - (e) The project applicant identifies any insurable structures affected by temporary changes to the area of special flood hazard or Base Flood Elevation and notifies owners of any increased risk of flooding;
 - (f) The project applicant is provided with written notification that they may be liable for any flood damages resulting from the temporary encroachment
2. Projects for stream habitat restoration may be permitted in the floodway provided:

- (a) The project qualifies for a Department of Army Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,
- (b) A qualified professional, a Registered Professional Engineer, staff of NRCS, the county, or fisheries, natural resources, or water resources agencies have provided a feasibility analysis and certification that the project was designed to keep any rise in one-hundred (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.

F. Critical Facility (Essential Facilities): Construction of new critical facilities in Rogue River 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 (3') feet above BFE or to the height of the five-hundred (500) year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the Base Flood Elevation shall be provided to all critical facilities to the extent possible.

G. Other Development, including Accessory Structures, in Non-Coastal High Hazard Areas: All development in non-coastal high hazard areas (all A zones) for which provisions are not specified in this Ordinance or 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 regulatory Floodway, meet the limitations of Section 4.E (Floodways) of this Ordinance;

4. Be anchored to prevent flotation, collapse, 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;

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;

7. Request relief from elevation or dry flood-proofing standards for new and replacement, or substantially improved accessory structures containing no more than two-hundred (200') square feet. Such a structure must meet requirements 1. through 6. above and in addition shall meet the following standards:

(a) It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;

(b) It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or

i. Provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

ii. The bottom of all openings shall be no higher than one (1') foot above the higher of the exterior or interior grade or floor immediately below the opening;

iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

H. Temporary Structures and Temporary Storage

1. Temporary structures placed in flood fringe: Relief from dry flood-proofing standards may be granted for non-residential structures erected during the dry season (June – October) or for a period of less than ninety (90) days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movements resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. A plan for evacuating the temporary structure and disconnecting all utilities shall be provided if the structure is allowed to be placed during the wet season (November – May.)

2. Temporary storage in the flood fringe: Temporary storage of goods and materials is allowed during the dry season (June – October) or for a period of less than ninety (90) days. Stored materials shall not include hazardous materials. A plan for removing the stored materials shall be provided if the material is allowed to be placed during the wet season (November – May.)

3. The placement of any temporary structures within the regulatory floodway shall be limited to the dry season (June – October) and require an

approved special use permit.

I. Tanks

1. New and replacement tanks in flood hazard areas either shall be elevated above the Base Flood Elevation on a supporting structure designed to prevent flotation, collapse or lateral movement during conditions of the base flood, or be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood. [From ASCE 24]

2. New and replacement tank inlets, fill openings, outlets and vents shall be placed a minimum of two (2') feet above Base Flood Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the design flood. [From ASCE 24]

J. Toxic material

Oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below BFE, or where no BFE is available lower than three feet above grade, unless confined in a tank installed in compliance with this Ordinance;

SECTION 5. FENCES (See Appendix "A"): Guidance Concerning Fencing and Walls in Areas of Special Flood Hazard Fencing and walls located in the special flood hazard area require floodplain development permits, unless they are small enough to be considered de minimis development as defined by local Ordinance.

New and replacement fencing shall be designed to collapse under conditions of the base flood or to allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass freely.

SECTION 6. 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 unenforceable of the remainder of this Ordinance. In that event, all remaining clauses and provisions shall continue in full force and effect.

SECTION 7. REPEAL OF PREVIOUS ORDINANCE: Ordinance No. 87-152-O is hereby repealed in its entirety.

Appendix "A"

Guidance Concerning Fencing and Walls in Areas of Special Flood Hazard

	Fencing and Walls Allowed?			
	Floodway Fringe (Riverine)	Regulatory Floodway (Riverine)	Shallow/ Sheetflow/ Ponding Zones	Coastal Velocity Zones
A	Yes			
B	Yes	Yes, with limited cross channel fencing	Yes	Yes
C	Design Review Required ⁱ			
D	Yes, if open at base to BFE	No ⁱⁱ	Yes, if open at base to BFE	Yes, if installed parallel to shore otherwise Design Review required.
E	Yes, if open at base to BFE	No ⁱⁱ	Yes, if open at base to BFE	Yes, if installed parallel to shore, otherwise Design Review required.
F	Yes, if adequate openings at base to BFE	No ⁱⁱ	Yes, if adequate openings at base to BFE	Design Review required ⁱⁱⁱ
G	Yes, if adequate openings at base to BFE	No ⁱⁱ	Yes, if adequate openings at base to BFE	Design Review required ⁱⁱⁱ
H	Yes, if adequate openings at base to BFE	No ⁱⁱ	Yes, if adequate openings at base to BFE	No

- i. Ensure fence will collapse under anticipated base flood conditions. Debris impacts must be considered.
- ii. Unless shown, using FEMA-approved engineering/modeling standards, to cause no-rise in BFE
- iii. Fences and walls in V zone must be analyzed for their effects on flood conditions, including ramping effects on adjacent buildings and effects of debris during flood events (TB 5)

Fence/Wall Types:

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

ORDINANCE NO. 10-372-O

First Reading: February 24, 2011

The enactment of the above Ordinance was moved by **England**, seconded by **Fechtler**, roll call being had thereon, resulted as follows:

VanArsdale; aye, England; aye, Fechtler; aye, Ehrhardt; aye, Shamblin; aye, Schaeffer; aye.

Second Reading: March 24, 2011

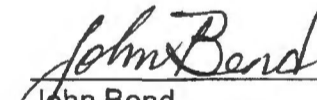
The enactment of the above Ordinance was moved by, **England**, seconded by **Fechtler**, roll call being had thereon, resulted as follows:

VanArsdale; aye, England; aye, Fechtler; aye, Shamblin; aye, Schaeffer; aye.

Whereupon the Mayor declared the motions to be carried and the Ordinance adopted.

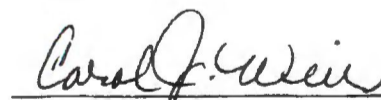
PASSED this 25th day of **March 2011**, by the Common Council of the City of Rogue River, Oregon.

SIGNED this 26th day of **March 2011**, by the Mayor of the City of Rogue River, Oregon.



John Bond
Mayor

ATTEST:



Carol J. Weir
Deputy Recorder

CITY OF ROGUE RIVER
PO BOX 1137
ROGUE RIVER OR 97537



Attention: Plan Amendment Specialist
Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

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