



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office Fax: (503) 378-5518

Third Floor/Measure 37 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

December 4, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Polk County Plan Amendment  
DLCDC File Number 002-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: December 15, 2006**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

**\*NOTE: THE 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 DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist  
Christine Valentine, DLCD Natural Hazards & Floodplains Specialist  
Autumn Hillebrand, Polk County

<paa>



**FORM 2**

**DLCD NOTICE OF ADOPTION**

This for **must be received** by DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 – Division 18

(See reverse side for submittal requirements)

DEPT OF

NOV 27 2006

AND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: Polk County Local File No.: LA 06-02

(If no number, Use none)

Date of Adoption: 11-22-2006 Date Mailed: 11-22-2006

(Must be filled in)

(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 9-8-06

- Comprehensive plan Text Amendment
- Land Use regulation Amendment
- New Land Use regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

(Please Specify Type of Action)

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

Text Amendments to the Polk County Zoning Ordinance for the Floodplain Overlay Zone (Chapter 178) to bring into compliance with FEMA regulations.

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

Same

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

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

Location: \_\_\_\_\_ Acres Involved: \_\_\_\_\_

Specified Change in Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: Goal 7

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

J:\pa\paa\forms\form2word.doc

revised: 09/09/2002

DLCD # 002-06 (15549)

Did the Department of Land Conservation and Development **receive** a notice of Proposed Amendment

**Forty-Five (45) days prior to the first evidentiary hearing?** Yes:  X  No: \_\_\_\_\_

If no, do the Statewide Planning Goals apply? Yes: \_\_\_\_\_ No: \_\_\_\_\_

If no, did the Emergency Circumstances Require immediate adoption? Yes: \_\_\_\_\_ No: \_\_\_\_\_

Affected State or Federal Agencies, Local Governments or Special Districts: \_\_\_\_\_

Local Contact:  Autumn Hillebrand  Area Code + Phone Number:  503-623-9237

Address:  850 Main Street  City:  Dallas

Zip Code+4:  97338  Email Address:  hillebrand.autumn@co.polk.or.us

## **ADOPTION SUBMITTAL REQUIREMENTS**

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

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

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

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



# POLK COUNTY

COMMUNITY DEVELOPMENT

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3182  
(503) 623-9237 ★ FAX (503) 623-6009

GENE CLEMENS  
DIRECTOR

AUSTIN MCGUIGAN  
PLANNING DIRECTOR

## NOTICE OF BOARD OF COMMISSIONERS DECISION

FILE NUMBER: Legislative Amendment LA 06-02  
TYPE OF ACTION: Amendments to the Polk County Zoning Ordinance for the Floodplain Overlay Zone (Chapter 178) to bring in alignment with changes in Federal Emergency Management Agency (FEMA) regulations.  
STAFF CONTACT: Aututmn Hillebrand  
REVIEW AND DECISION CRITERIA: Polk County Zoning Ordinance 115.060


**The Board of Commissioners adopted ORDINANCE NO. 06-10**, which includes the following:

1. Findings in support of text amendments to the Polk County Zoning Ordinance for the Floodplain Overlay Zone, and
2. Revised text language to Polk County Zoning Ordinance Chapter 178.

Implementing ordinances and documents are available in the file at the Planning Division, Polk County Courthouse, 850 Main Street, Dallas. The text amendments are available for review, and may be purchased for cost at the Community Development Department.

Objectors may appeal to the Land Use Board of Appeals as provided by ORS 197.825 through 197.830. A decision may be appealed to the Land Use Board of Appeals (LUBA) within 21 days after the mailing of the decision. Contact LUBA (550 Capitol Street NE, Suite 235, Salem, Oregon 97310, 503-373-1265) for appeal procedures. The adoption was completed and becomes effective immediately unless the decision is appealed as allowed by law.

**EFFECTIVE DATE: December 13, 2006.**

  
Austin McGuigan, Planning Director

11/22/2006  
Date

A copy of the file, all documents and evidence, and the applicable criteria are available for inspection at no cost and will be provided at the Community Development Department (Polk County Courthouse, 850 Main Street, Dallas, Oregon 97338 (503-623-9237) for the cost of copying. Failure of an issue to be raised in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:** ORS Chapter 215 requires that if you receive this Notice of Decision, it must promptly be forwarded to the purchaser.

1

2

3 **BEFORE THE BOARD OF COMMISSIONERS FOR**  
4 **POLK COUNTY, OREGON**

5

6 In the matter of Legislative )  
7 Amendment LA 06-02 adopting )  
8 Amendments to the Polk County )  
9 Zoning Ordinance for the Floodplain )  
10 Overlay Zone (Chapter 178) )

11

12

**ORDINANCE NO. 06-10**

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

**WHEREAS**, resulting from the Map Modernization Initiative, Department of Land Conservation and Development (DLCD) has identified changes in Federal Emergency Management Agency (FEMA) regulations that are not reflected in Polk County's current Floodplain Overlay Zone; and

**WHEREAS**, Polk County Board of Commissioners recognized the need to update the Polk County Zoning Ordinance relating to changes in Federal Emergency Management Agency (FEMA) regulations in order to remain in compliance with the National Flood Insurance Program (NFIP) and retain federally-backed flood insurance for the residents of Polk County; and

**WHEREAS**, the Polk County Planning Commission conducted a duly noticed hearing on October 3, 2006; and

**WHEREAS**, the Board of Commissioners received a recommendation in support of Legislative Amendment 06-02 from the Polk County Planning Commission; and

**WHEREAS**, the Board of Commissioners received a recommendation in support of Legislative Amendment 06-02 from the Polk County Planning Division staff; and

**WHEREAS**, the Board of Commissioners conducted a duly noticed public hearing on November 15, 2006; and

**WHEREAS**, the Board of Commissioners provided for the opportunity for the submission of testimony and evidence regarding such proposed text amendments from interested citizens and considered all evidence and testimony; and

**WHEREAS**, the Board of Commissioners, on November 15, 2006, publicly deliberated and adopted the attached documents; now therefore

**THE POLK COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:**

Sec. 1. That Polk County adopts the Findings in favor of the text amendments to the Polk County Zoning Ordinance as identified in the Staff Report as shown in Attachment "A."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54

Sec. 2. That Polk County adopts the Polk County Zoning Ordinance Chapter 178 as shown in Attachment "B."

Sec. 3. That Polk County determines that an emergency related to the economic welfare of the citizens of Polk County is declared and this ordinance is effective immediately upon passage.

Dated this 22nd day of November 2006, at Dallas, Oregon.

**POLK COUNTY BOARD OF COMMISSIONERS**

*unavailable for signature*  
\_\_\_\_\_  
Mike Propes, Chair

*[Handwritten Signature]*  
\_\_\_\_\_  
Ron Dodge, Commissioner

*[Handwritten Signature]*  
\_\_\_\_\_  
Tom Ritchey, Commissioner

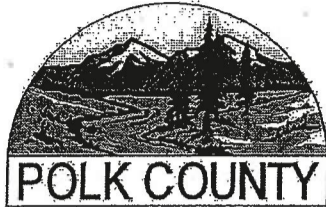
Approved as to Form:

*[Handwritten Signature]*  
\_\_\_\_\_  
David Doyle  
County Counsel

First Reading: 11-22-06

Second Reading: 11-22-06

Recording Secretary: *[Handwritten Signature]*  
\_\_\_\_\_



# POLK COUNTY

COMMUNITY DEVELOPMENT

POLK COUNTY COURTHOUSE ★ DALLAS, OREGON 97338-3182  
(503) 623-9237 ★ FAX (503) 623-6009

GENE CLEMENS  
DIRECTOR

AUSTIN MCGUIGAN  
PLANNING DIRECTOR

## Staff Report

---

<b>TYPE OF ACTION:</b>	A Legislative Amendment to amend the Polk County Zoning Ordinance in order to bring the Floodplain Overlay Zone (Chapter 178) in alignment with changes in Federal Emergency Management Agency (FEMA) regulations.
<b>APPLICABLE CRITERIA:</b>	Polk County Zoning Ordinance 115.060
<b>FILE NUMBER:</b>	Legislative Amendment (LA 06-02)
<b>STAFF CONTACT:</b>	Autumn Hillebrand, Assistant Planner

---

### I. BACKGROUND AND PROCEEDINGS

Floods can be extremely dangerous and destructive, damaging property and crops and resulting in injury or death. Flood effects may disrupt communities for months and the financial costs of addressing damaged infrastructure can be great. The properties in and near the floodplains of Polk County are subject to flooding events almost annually. Since flooding is such a pervasive problem throughout the county, many residents have purchased flood insurance to help recover from losses incurred from flooding events.

The Federal Emergency Management Agency (FEMA) resulted from the consolidation of five federal agencies that were dealing with different types of emergencies. The mission of FEMA is "to reduce loss of life and property and protect the nation's critical infrastructure from all types of hazards through a comprehensive, risk-based, emergency management program of mitigation, preparedness, response and recovery." FEMA provides maps of flood hazard areas, various publications related to flood mitigation, funding for flood mitigation projects, and technical assistance. FEMA generates a Flood Insurance Rate Map (FIRM) which is an official map used for determining floodplain locations. Properties identified on a FIRM map within the floodplain would be subject to floodplain regulations and may be required to have flood insurance.

The National Flood Insurance Program (NFIP) is a flood insurance program that is operated by FEMA and is available to citizens if they live in a community that implements the NFIP siting and building standards. The standards are applied to development that occurs within a delineated floodplain, a drainage hazard area and areas subject to inundation during a base flood event. In Polk County, the NFIP and related building code regulations went into effect in 1974. Oregon's Department of Land Conservation and Development (DLCD) is the state's NFIP coordinating agency.

DLCD is the State of Oregon's lead agency for administering the NFIP. FEMA has called upon DLCD to address flood map updating and flood map digitization as part of FEMA's nationwide Map Modernization Initiative. Resulting from the Map Modernization Initiative, DLCD has identified changes in FEMA regulations that are not reflected in Polk County's current Floodplain Overlay Zone. Failure to comply with FEMA's regulations would result in suspension from the NFIP. In order to remain in compliance with the NFIP and retain federally-backed flood insurance for the residents of Polk County, the proposed text amendment changes reflecting changes in FEMA's regulations would need to be adopted.

Planning Division staff prepared draft Zoning Ordinance revisions for Chapter 178 of the Polk County Zoning Ordinance (PCZO) that would update the ordinance provisions to be consistent

ATTACHMENT A

with changes in FEMA regulations. The changes to the Zoning Ordinance have been identified using track changes in Microsoft Word. Underlined text identifies text added and strikethrough text identifies text removed.

A packet was provided to the local Area Advisory Committees, the Polk County Committee for Citizen Involvement and the Oregon Division of Land Conservation and Development with a request for comments, suggestions, and recommendations on September 26, 2006. No comments were received.

The Planning Commission conducted a public hearing on October 3, 2006, at 7:00 p.m. The Planning Commission considered testimony and deliberated on October 3, 2006 at 7:00 p.m. During the Planning Commission's deliberations, a recommendation was made by the Planning Commission to modify text to the "Floodway" definition. The first sentence to the "Floodway" definition was a text change in order to be consistent with the FEMA definition to read as follows: *"FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.*" The Planning Commission wanted to modify the second sentence and staff has prepared the second sentence of the "Floodway" definition to read as follows: *"FEMA determines the floodway using a numerical model, since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion."* After holding a public hearing, the Planning Commission recommended adoption of the proposed text amendments as presented by Planning Staff and as modified by the Polk County Planning Commission.

Planning staff has added text to the Floodplain Overlay Zone after the public hearing on October 3, 2006, that the Planning Commission did not review to allow crawlspace construction. It was brought to staff's attention after holding the public hearing on October 3, 2006, held by the Planning Commission, that if the Polk County Floodplain Overlay Zone does not include language allowing crawlspaces, then crawlspace construction in Polk County would not be allowed. Staff recommends including these text changes for crawlspace construction since this is a common type of construction within the Northwest and because of this FEMA has generated Technical Bulletin 11-01 for NFIP interim guidance regarding crawlspace construction. Some crawlspace construction is considered below-grade crawlspace construction and may be subject to higher flood insurance premiums. If a below-grade crawlspace does not meet the requirements of FEMA Technical Bulletin 11-01, the structure may be rated as having a basement and would result in even higher insurance premiums. As a result, staff has added text to the Floodplain Overlay Zone using language from FEMA Technical Bulletin 11-01 to allow crawlspace construction in Polk County and give guidance for crawlspace construction, consistent with NFIP requirements.

Bob Slyh, Planning Commission Chair and Professional Engineer (PE), reviewed the Floodplain Overlay Zone after planning staff added text to allow crawlspace construction. Bob Slyh, PE submitted comments on November 7, 2006 and made a recommendation to change the second sentence of the "Floodway" definition into more than one sentence to read as follows: *"Floodways are determined by FEMA using a numerical model. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles, along with an elevated erosion potential."* Staff recommends adopting this language to better clarify the floodway hazards.

Bob Slyh, PE made comments regarding the added text to allow crawlspace construction. Staff prepared Section 178.070(A)(6) to read as follows: *"Crawlspace Construction. At-grade crawlspaces are the preferred method of construction within flood hazard areas. However, below-grade crawlspaces are allowed, and not considered a basement, if all of the following standards are satisfied as found in Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:"*. Bob Slyh, PE, recommended a restructure



to the sentence content in Section 178.070(A)(6), introducing crawlspace construction to read as follows: "*Crawlspace Construction. When crawlspaces are constructed in a flood hazard area, at-grade crawlspaces are the preferred method of construction. Below-grade crawlspaces are allowed, and not considered a basement, if all of the following standards are satisfied as found in Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas:*". Staff recommends adopting this language.

Bob Slyh, PE recommended adding text to Section 178.070(A)(6)(f) and (h) in addition to what staff proposes. Staff's recommendation is shown in italics below and Mr. Slyh's recommendation is shown in bold italics below:

- (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 unless a design is submitted by a registered engineer or architect. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.*
- (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 unless a design is submitted by a registered engineer or architect.*

Staff does not recommend making the changes identified in bold italics. The text proposed by staff in Section 178.070(A)(6)(a-h) is language from FEMA Technical Bulletin 11-01 regarding NFIP requirements for all crawlspace construction and below-grade crawlspace construction. The standards set forth in FEMA Technical Bulletin 11-01 include crawlspace requirements to ensure crawlspace construction would not be considered a basement. Structures that have below-grade crawlspaces may have higher flood insurance premiums than structures that have the preferred crawlspace construction with the interior elevation at or above the lowest adjacent grade, even when the crawlspace meets the requirements of the FEMA Bulletin 11-01. If a below-grade crawlspace does not meet the requirements of this section and FEMA Bulletin 11-01, the structure may be rated as having a basement and would result in higher insurance premiums. As a result, to ensure the lowest flood insurance rate staff has not included the changes proposed above and recommends not adopting the proposed recommendations above.

Notification of the Planning Commission public hearing on October 3, 2006 and notification of the Board of Commissioners public hearing on November 15, 2006 for file LA 06-02 was published in the Dallas *Itemizer-Observer* Newspaper on September 13, 2006. Notification of this legislative proceeding has been fulfilled pursuant to Polk County Zoning Ordinance (PCZO) Section 111.370. Comments were received from Bob Slyh, PE and included in the staff report (Exhibit A). Two copies of the draft text amendments were provided with notification to the Oregon Department of Land Conservation and Development on September 8, 2006, pursuant to Oregon Revised Statutes 197.610 and Oregon Administrative Rule 660, Division 18.

## II. CRITERIA FOR LEGISLATIVE PLAN AMENDMENTS

**A legislative plan amendment may be approved provided that the request is based on substantive information providing a factual basis to support the change. In amending the Comprehensive Plan, Polk County shall demonstrate:**

- (A) Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4; [PCZO 115.060(A)]**

**Findings:** The drafted Zoning Ordinance amendments to the Floodplain Overlay Zone would update ordinance provisions to be consistent with changes in FEMA regulations. Oregon's

Statewide Planning Goal 7, titled "Areas Subject to Natural Hazards" is intended to protect people and property from natural hazards. Compliance with the NFIP would demonstrate compliance with Statewide Planning Goal 7 in regards to flood hazards. Goal 7 (C)(4) states "Local governments will be deemed to comply with Goal 7 for coastal and riverine flood hazards by adopting and implementing local floodplain regulations that meet the minimum NFIP requirements." Therefore, by amending recent FEMA regulations to an acknowledged floodplain ordinance, staff finds that the proposed amendments would be in compliance with Goal 7. Failure to comply with FEMA's regulations would result in suspension from the NFIP. In order to remain in compliance with the NFIP and retain federally-backed flood insurance for the residents of Polk County, the proposed text amendment changes reflecting changes in FEMA's regulations would need to be adopted. Staff has included draft language for these regulation changes in Polk County Floodplain Overlay Zone, Chapter 178.

There are no other Oregon Revised Statutes, Statewide Planning Goals, or Administrative Rules that are applicable to the drafted text amendments. The drafted text amendments would not require an exception to any Oregon Statewide Planning Goal.

**(B) Conformance with the Comprehensive Plan (PCCP) goals, policies and intent, and any plan map amendment criteria in the plan; [PCZO 115.060(B)]**

The following Polk County Comprehensive Plan Element F Land Capability/Resource Quality have been identified as relevant to the drafted text amendments:

1. **Natural Hazards and Disasters**
  - 1.1 Polk County will cooperate with governmental agencies to protect life and property from natural hazards and disasters.
  - 1.2 Polk County will review all proposed development in floodplains and may prohibit construction of habitable structures in designated floodplains.
  - 1.3 Polk County will continue participation in the HUD Flood Insurance Program (NFIP) and will cooperate with governmental agencies in utilizing standards and procedures for protecting life and property from flood damage.

**Findings:** The drafted Zoning Ordinance amendments to the Floodplain Overlay Zone would update ordinance provisions to be consistent with changes in FEMA regulations. The Polk County Comprehensive Plan specifies as a policy that Polk County will continue participation in the Flood Insurance Program and will cooperate with governmental agencies in utilizing standards and procedures for protecting life and property from flood damage, consistent with Statewide Planning Goal 7. The proposed changes would implement changes in FEMA regulations and allow for continued participation in the NFIP, as specified by the Comprehensive Plan Policies identified above. Failure to comply with FEMA's regulations would result in suspension from the NFIP. In order to remain in compliance with the NFIP and retain federally-backed flood insurance for the residents of Polk County, the proposed text amendment changes reflecting changes in FEMA's regulations would need to be adopted. As a result of adopting the text amendment changes, federally-backed flood insurance could continue to be obtained by property owners within Polk County.

The proposed text amendment would comply with the above-identified Comprehensive Plan Policies. No other Comprehensive Plan policies or goals have been identified to be relevant to this proposal.

**(C) That the proposed change is in the public interest and will be of general public benefit; and [PCZO 115.060(C)]**

Findings: Floods can be extremely dangerous and destructive, damaging property and crops and resulting in injury or death. Flood effects may disrupt communities for months and the financial costs of addressing damaged infrastructure can be great. The properties in and near the floodplains of Polk County are subject to flooding events almost annually. Since flooding is such a pervasive problem throughout the county, many residents have purchased flood insurance to help recover from losses incurred from flooding events. The public benefit of the proposed Zoning Ordinance text amendments would be implementing local floodplain regulations consistent with FEMA regulations which would allow Polk County to continue participation in the NFIP. By participating in the NFIP the general public can obtain federally-backed flood insurance to help recover from losses incurred from flooding events. The NFIP is a flood insurance program that is operated by FEMA and is available to citizens if they live in a community that implements the NFIP siting and building standards. The Polk County Comprehensive Plan specifies as a policy that Polk County will continue participation in the Flood Insurance Program and will cooperate with governmental agencies in utilizing standards and procedures for protecting life and property from flood damage, consistent with Statewide Planning Goal 7. The drafted text amendments would implement locally the current regulations required by FEMA. As a result of adopting the text amendment changes, federally-backed flood insurance could continue to be obtained by property owners within Polk County.

**(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land. [PCZO 115.060(D)]**

Findings: The identified amendments would not change the Urban Reserve Comprehensive Plan Designation, or permit a new use within the Floodplain Overlay Zone that otherwise would not be permitted within an Urban Growth Boundary. Therefore, the proposed amendments would not be limited or prohibited by any current intergovernmental agreements.

**RECOMMENDATION:**

Planning Division staff drafted text amendment language to amend the Polk County Zoning Ordinance in order to bring the Floodplain Overlay Zone (Chapter 178) in alignment with changes in Federal Emergency Management Agency (FEMA) regulations. Planning Division staff recommends adoption of language to bring the Polk County Floodplain Overlay Zone into compliance with FEMA regulations in order to remain in compliance with the National Flood Insurance Program (NFIP) and retain federally-backed flood insurance for the residents of Polk County.

**CHAPTER 178**  
**FLOODPLAIN OVERLAY ZONE**

178.005.	Statutory Authorization
178.010.	Purpose
178.015.	Definitions
178.020.	General Provisions
178.030.	Uses
178.040.	Prohibited Uses
178.050.	Development Permit Procedures and Requirements
178.060.	Conditional Use Permit Procedures and Requirements
178.070.	Provisions for Flood Hazard Reduction
178.080.	Variance Procedure
178.090.	Warning and Disclaimer
178.100.	Map Revisions and Amendments

**178.005. STATUTORY AUTHORIZATION.** The Legislature of the State of Oregon has in ORS 221.916 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 Board of Commissioners of Polk County, Oregon, does ordain as follows:

**178.010. PURPOSE.** It is the purpose of the Floodplain Overlay Zone to regulate the use of those areas subject to periodic flooding and to permit and encourage the retention of open land uses that are compatible and harmonious in nature. In advancing these principles and the general purposes of the Polk County Comprehensive Plan and Zoning Ordinance, the specific intent of this zone is:

- (A) To combine with present zoning requirements, certain restrictions made necessary for the known floodplains to promote the general health, welfare and safety of the County.
- (B) To minimize the impact due to the establishment of certain structures and land uses in areas unfit for human habitation because of danger of flooding, unsanitary conditions or other hazards.
- (C) To minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage.
- (D) To reduce the financial burden imposed on the public and governmental units by frequent and periodic flooding.
- (E) To permit certain uses which can be strategically located in the floodplain as herein defined and which will not cause danger to life and property at, above or below their locations within the floodplain.
- (F) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (G) To ensure that potential buyers are notified that property is in the floodplain.
- (H) To ensure that those who occupy the areas within floodplains assume responsibility for their actions.
- (I) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains.

**178.015. 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.

"APPEAL" means a request for a review of the Planning Director's or Building Official's interpretation of any provisions of this ordinance or a request for a variance. Such an appeal shall be made to the Building Inspection Board of Appeals or to the Board of Commissioners.

"BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year, referred to as the '100-year flood.' Designation on maps always includes the letters A or V.

"BASEMENT" means any area of the building having its floor subgrade (below ground level) on all sides.

"DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within floodplains.

"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 floodplains (also known as Special Flood Hazard areas) 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.

"FLOODPLAIN" means the land within a community subject to a one percent or greater chance of flooding in any given year. This area is referred to on the Flood Insurance Rate Map as the "Special Flood Hazard Areas". Designation on maps always includes the letters A or V.

"FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Floodways are determined by FEMA using a numerical model. The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris and potential projectiles, along with an elevated erosion potential.

"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 non-elevation design requirements of this ordinance found at Section 178.070 (B)(3).

"MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

"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 this ordinance.

"RECREATIONAL VEHICLE" means a vehicle which is:

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

"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 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 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. For a substantial improvement, the actual start of

construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"STRUCTURE" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

"SUBSTANTIAL IMPROVEMENT" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either:

- (1) before the improvement or repair is started, or
- (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"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 the market value of the structure before the damage occurred.

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

"WATERCOURSE" means any natural or artificial channel in which a flow of water occurs either continually or intermittently which is identified as having a floodplain on the Polk County Flood Insurance Rate map.

**178.020. GENERAL PROVISIONS.** The following regulations apply to all areas of special flood hazards within the jurisdiction of Polk County, Oregon. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Polk County, Oregon, and Incorporated Areas" dated December 19, 2006 and any revisions there to with accompanying Flood Insurance Rate Maps and any revisions there to are hereby adopted by reference and declared a part of this Ordinance. The issue of the map most recently adopted by Polk County shall apply. The Flood Insurance Rate Maps and Flood Insurance Study are on file at the Polk County Community Development Department, Polk County Courthouse, Dallas, Oregon.

Proposed revisions to any portion of the Polk County FIRM by the Federal Emergency Management Agency (FEMA) that would result in changes to the location of floodplain boundaries shall constitute the initiation of a zone change proceeding by a government body subject to the standards for such proceedings as described in the Polk County Zoning Ordinance (PCZO). A public hearing shall be held and notice of such hearing shall be given to all affected property owners as provided for by the PCZO. Notice of such public hearing shall be provided to FEMA.

As described in Section 178.100, the county or a private party may request that a map be revised through the issuance of a Letter of Map Revision (LOMR). LOMR requests which would result in a change to floodplain boundaries, but not floodway boundaries, and LOMR requests which would remove from floodplains individual structures or parcels elevated by the placement of fill,

shall constitute the initiation of a zone change proceeding subject to the standards for such proceedings as described in the PCZO. A public hearing shall be held and notice of such hearing shall be given to all affected property owners as provided for by the PCZO. Notice of such public hearing shall be provided to FEMA.

Proposed amendments to the Polk County FIRM which change floodway boundaries only, including both revisions proposed by FEMA and revisions initiated through the LOMR process, shall not be considered a zone change proceeding, however, a public hearing shall be held and notice of such hearing shall be given to all affected property owners. Notice of such public hearing shall be provided to FEMA.

When base flood elevation data is not available, the Planning Director shall have the authority to determine the location of the boundaries of the floodplain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination. In making such a determination, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation to the Board of Commissioners as provided by the Zoning Ordinance.

**178.030. USES.** Within the Floodplain Overlay Zone, no uses or structures shall be established except as provided in the applicable underlying zone and in the provisions of this overlay zone. Except as provided herein, all uses and floodplain development shall be subject to the issuance of a development permit or a landuse permit as provided in Section 178.050 and Section 178.060.

The following uses are exempt from the requirements of Chapter 178 of the Polk County Zoning Ordinance. These activities may be conducted in a floodplain without obtaining a landuse permit or a development permit pursuant to Chapter 178 of the Zoning Ordinance. Such activities must, however, conform to all other applicable provisions of the Polk County Zoning Ordinance and the activities shall not fall under the definition of "development":

- (A) The placing by a public agency of signs, markers, aids, etc. to serve the public;
- (B) Activities to protect, conserve, enhance and maintain public recreational, scenic, historical, and natural uses of public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical, or natural uses on public lands shall require review by the Planning Director;
- (C) Agriculture as defined in ORS 215.203 (2);
- (D) The propagation of timber or the cutting of timber;
- (E) Uses legally existing on the effective date of this Ordinance; any change or intensification of such use not otherwise permitted in this section, however, shall require review as provided by this Ordinance.

**178.040. PROHIBITED USES.** It shall be unlawful to erect, alter, maintain or establish in a floodplain overlay zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided by the Zoning Ordinance.

- (A) Subdivisions are not consistent with the purpose and intent of this zone and are hereby prohibited.
- (B) Storage of Materials and Equipment. Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property if transported by flood waters are prohibited. Storage of materials and equipment not having these characteristics is permissible with a landuse permit, only if the materials and equipment have low damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.



(C) Residential (including the placement of manufactured homes) and nonresidential structures shall not be constructed within the adopted regulatory floodway, with the exception of:

- (1) Accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- (2) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public sale or use.

Placement of such accessory structures or utility facilities in the floodway shall be subject to the landuse permit requirements of Section 178.060.

#### **178.050. DEVELOPMENT PERMIT PROCEDURES AND REQUIREMENTS.**

A development permit shall be obtained from the Polk County Building Department before construction or structural development begins within any floodplain shown on the Polk County Flood Insurance Rate Map, excluding areas designated as floodways. The development permit shall be for all structures, including manufactured homes, accessory buildings, and bridges for private use.

The Building Official is responsible for review and approval of all development permits issued for structural development within floodplains identified on the Polk County Flood Insurance Rate Map. Approval of the development permit shall be based upon:

- (A) Compliance with the standards for flood hazard reduction described in Section 178.070.
- (B) Completion of a National Flood Insurance Program Elevation Certificate. The Elevation Certificate must be completed by a land surveyor, engineer, or architect for all structural development in areas within floodplains where the base flood elevation has been established (zones AE and AH). The Building Official will complete the Elevation Certificate for all structural development in all areas within floodplains where no base flood elevation has been established (zone A).

A National Flood Insurance Program Floodproofing Certificate shall be completed by a registered professional engineer or architect for all nonresidential development as described in Section 178.070 (C)(3).

- (C) Review to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

#### **178.060. LANDUSE PERMIT PROCEDURES AND REQUIREMENTS.**

- (A) A landuse permit shall be obtained from the Polk County Community Development Department prior to commencement of the following types of development:
  - (1) Located within floodplains established in Section 178.020 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, construction of residential structures (including the placement of manufactured homes) and nonresidential structures shall not be permitted within the adopted regulatory floodway subject to compliance with 178.060 (B)(3), with the exception of:
    - (a) Accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure.
    - (b) Utility facilities necessary for public service, except commercial facilities for the purpose of generating power for public sale or use.
    - (c) The construction or substantial improvement of bridges, for public or private use.

- (d) Addition or substantial improvement of an existing structure.
  - (2) Non-structural development within any floodplain identified on the Polk County Flood Insurance Rate Map requires a landuse permit. Non-structural development includes mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
  - (3) Alteration of a watercourse which is identified as having a floodplain as shown on the Polk County Flood Insurance Rate Map. (See Section 178.060 (B)(5)).
- (B) The Planning Director is responsible for review and approval of all landuse permit applications submitted for development and uses described in this section. The Planning Director shall determine that such development and uses meet the following requirements:
- (1) The necessary permits for the proposed development have been obtained from those federal, state or local governmental agencies from which prior approval is required.
  - (2) The proposed development will not adversely affect the flood carrying capacity of the floodplain. For purposes of this ordinance "adversely affect" means that the cumulative effects 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.
  - (3) Development in the floodway requires compliance with the following provisions:
    - (a) Certification by a registered professional engineer or architect demonstrating that 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.
    - (b) If the above section is satisfied, all new construction and substantial improvements as identified in Section 178.060 (A) shall comply with all applicable flood hazard reduction provisions of Section 178.070.
  - (4) Non-structural development within any floodplain identified on the Polk County Flood Insurance Rate Map. Non-structural development includes mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Approval of the landuse permit shall be based on the following provisions:
    - (a) Such development shall be consistent with the need to minimize flood damage;
    - (b) Such development shall have adequate drainage provided to reduce exposure to flood damage; and,
    - (c) 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 (1) foot at any point.
    - (d) If located in the floodway, non-structural development shall meet the requirements of 178.060 (B)(3).
  - (5) Alteration of a watercourse which is identified as a floodplain as shown on the Polk County Flood Insurance Rate Map requires a landuse permit. Prior to

approving a landuse permit for the alteration of a watercourse, the Planning Director shall:

- (a) Notify adjacent communities, adjoining property owners, and the Department of Land Conservation and Development prior to any alternation or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (C) Notice upon an application for a landuse permit under Section 178.060 shall be provided as required by Chapter 111.
- (D) Notice of the decision of the Planning Director shall be given as provided in Section 111.270.
- (E) Decisions of the Planning Director on landuse applications under Section 178.060 shall be subject to the appeal provisions in Section 111.280 and the call of the Board of Commissioners as provided in Section 111.290.

#### **178.070. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

##### **(A) GENERAL STANDARDS.**

In all floodplains the following standards are required:

- (1) Anchoring. All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.
  - (a) 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).
- (2) Construction materials and methods.
  - (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (c) 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.
- (3) Utilities.
  - (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
  - (b) All 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
  - (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. As used in this subsection the term "contamination" has the meaning given to it in the administrative rules for on-site waste disposal systems adopted by the

Oregon Environmental Quality Commission and Department of  
Environmental Quality.

- (4) Subdivision Proposals and other Proposed Development.
  - (a) Shall be consistent with the need to minimize flood damage;
  - (b) Shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
  - (c) Shall have adequate drainage provided to reduce exposure to flood damage; and,
  - (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for other proposed development which contain at least 50 lots or 5 acres (whichever is less).
- (5) Elevation Certificates. For all structural development within floodplains where no base flood elevation has been established (zone A), the Building Official shall complete a National Flood Insurance Program Elevation Certificate as part of the final inspection for all structures pursuant to Section 178.050 (B). The Building Official will verify the height differential between the lowest floor of each structure and the existing grade at the building site prior to the start of construction. Failure to elevate the lowest habitable floor at least two feet above grade in these zones may result in higher flood insurance rates.
- (6) Crawlspace Construction. When crawlspaces are constructed in a flood hazard area, at-grade crawlspaces are the preferred method of construction. Below-grade crawlspaces are allowed, and not considered a basement, if all of the following standards are satisfied as found in Technical Bulletin 11-01, *Crawlspace 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 (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 exterior 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 crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.
  - (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.

Note: Structures that have below-grade crawlspaces may have higher flood insurance premiums than structures that have the preferred crawlspace construction with the interior elevation at or above the lowest adjacent grade, even when the crawlspace meets the requirements of this section and FEMA Bulletin 11-01. If a below-grade crawlspace does not meet the requirements of this section and FEMA Bulletin 11-01, the structure may be rated as having a basement and would result in higher insurance premiums.

#### (B) DWELLINGS AND MANUFACTURED HOMES.

In all floodplains where base flood elevation data has been established (zones AE and AH) new construction and substantial improvement of any residential structure, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after the date of this ordinance shall comply with the following requirements:

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one (1) foot above the base flood elevation.
- (2) Manufactured homes shall be anchored in accordance with subsection 178.070 (A)(1)(a).
- (3) 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.
- (4) All manufactured homes to be placed or substantially improved within zones where the base flood elevation has been determined (AE and AH) shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of 178.070 (A)(1)(a).
- (5) Crawlspace Construction. At-grade crawlspaces are the preferred method of construction within flood hazard areas. However, below-grade crawlspaces are allowed subject to the standards found in Section 178.070 (A)(6).

(C) Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement elevated one foot above the base flood elevation in zones AH and AE; 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; and
  - (3) A registered professional engineer or architect shall complete a National Flood Insurance Program Floodproofing Certificate showing 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. In zones AH and AE, this certificate shall include the specific elevation (in relation to mean sea level) to which structures are floodproofed. Such certifications shall be provided to the Building Official as set forth in Section 178.050 (B).
  - (4) 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).
  - (5) Crawlspace Construction. At-grade crawlspaces are the preferred method of construction within flood hazard areas. However, below-grade crawlspaces are allowed subject to the standards found in Section 178.070 (A)(6).
- (D) Accessory Structures. Detached accessory structures such as sheds, small garages, garden buildings, etc., may be allowed within floodplains subject to approval of a development permit (or a landuse permit if located in a floodway). The criteria in Section 178.050 or Section 178.060 shall be used in considering approval of the permit. In addition, all the following standards must be met. Accessory structures:
- (1) shall not be used for human habitation;
  - (2) shall be designed to have low flood damage potential;
  - (3) shall be constructed and placed on a building site so as to offer minimum resistance to the flow of floodwaters;
  - (4) shall be less than 300 square feet or \$3000 assessed value; and
  - (5) shall meet the general standards for anchoring, construction materials and methods, and utilities as set forth in Section 178.070 (A).

- (E) Recreational Vehicles. Recreational vehicles placed on sites within the floodplain must either:
- (1) be on the site for fewer than 180 consecutive days,
  - (2) be fully licensed and ready for highway use, or meet the requirements for a manufactured home.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

**178.080. VARIANCE PROCEDURE.** A variance may be granted for non-residential construction in very limited circumstances to allow a lesser degree of floodproofing than the requirements of Sections 178.070 (C). The general standards required in Section 178.070 (A) may not be waived. Consideration of a variance shall be in accordance with variance standards described in the current edition of the adopted Oregon Structural Specialty Code. The Building Official may permit and authorize a variance after considering if all of the following criteria are met:

- (A) **CONDITIONS FOR VARIANCES.**
- (1) Variances shall not be issued within designated floodways;
  - (2) Variances shall only be issued for non-habitable structures;
  - (3) Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
  - (4) There are unnecessary, unreasonable hardship or practical difficulties, other than economic, which can be relieved only by modifying the literal requirements of the ordinance;
  - (5) There are no other locations where the structure could be located on the property which are not in the floodplain; and
  - (6) Granting the variance will not result in increased flood heights, additional threats to public health or safety, extraordinary public expense, or create nuisances to the public.
- (B) **NOTIFICATION TO APPLICANT.** The County shall notify the applicant in writing over the signature of the Building Official that issuance of a variance to construct a structure below the base flood elevation will result in increased flood insurance rates, and increased risks to life and property.
- (C) **RECORD-KEEPING.** The County shall report all floodplain variances to FEMA, and maintain a record of all variance actions, including justification for granting a variance and the notification to applicant required in (B) above.
- (D) **HISTORIC LANDMARKS.** A variance may be granted without regard for the requirements set forth in this section for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or State Inventory of Historic Places.
- (E) **LIMITING VARIANCES.** The Building Official may impose such limitations, conditions and safeguards as are deemed appropriate so that the intent of this ordinance will be met, public safety and welfare secured, and substantial justice be done. If the variance is granted the applicant shall exercise the rights granted in accordance with the terms and subject to all the conditions and limitations of the approval by the Building Official. A violation of any such condition or limitation shall constitute a violation of this ordinance.

- (F) **VARIANCE RIGHT MUST BE EXERCISED TO BE EFFECTIVE.** Variance granted under this ordinance shall be effective only when the exercise of the right granted thereunder shall be commenced within one year after the effective date of that variance, unless a longer period be specified or thereafter allowed by the Building Official. In case such right has not been exercised, or extension obtained, the variance shall be void. A written request for an extension of time filed with the director at least 30 days prior to the expiration of the application shall extend the running of the one year period until the Building Official has acted on said request.

**178.090. WARNING AND DISCLAIMER.** The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Ordinance does not imply that lands outside floodplains or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create a liability on the part of Polk County, any officer, or employee thereof or the Federal Insurance Administration, for any flood damages that might result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**178.100. MAP REVISIONS AND AMENDMENTS.** FEMA has developed a map revision process under which the county or a private party may request that a map be revised through the issuance of a Letter of Map Revision (LOMR). A LOMR may be issued for revisions that decrease the size of the floodplain including floodways. LOMRs may also be issued to remove from floodplains individual structures or parcels elevated by the placement of fill or to remove from regulatory floodways structures or parcels inadvertently included in such floodways. LOMRs cannot be used to increase the size of floodplains including floodways.

All LOMR requests must be submitted to the Planning Director for forwarding to FEMA. The Planning Director shall review the request and shall indicate to FEMA whether the request is supported by Polk County. Additional supporting materials must be submitted by the party requesting the LOMR. Information regarding the types of additional data required is available from the Polk County Community Development Department. LOMR requests which would result in a change to floodplain boundaries, but not floodway boundaries, and LOMR requests which would remove from floodplains individual structures or parcels elevated by the placement of fill, shall constitute the initiation of a zone change proceeding as described in Section 178.020.

Individual property owners or lessees may also request from FEMA a determination as to whether one or more structures on one or more lots or parcels are located within floodplain boundaries. If necessary, FEMA will issue a Letter of Map Amendment (LOMA) for structure(s) and/or lot(s) or parcel(s) found to be outside of floodplains. This process is applicable only to requests for determinations based on topographic conditions that existed on the effective date of the Polk County FIRM that shows the structure or parcel of land to be within a floodplain. All other requests for determinations shall be submitted as LOMRs. More information regarding floodplain determinations is available from the Polk County Community Development Department.