

ADOPTED PLAN AMENDMENT

|                            |           |                               |                 |
|----------------------------|-----------|-------------------------------|-----------------|
| ADOPTED AUTO NO:           | 15118     | PROPOSED PA AUTO NO:          | 16848           |
| JURISDICTION ABB:          | ACOLU     | JURISDICTION :                | COLUMBIA COUNTY |
| DLCD FILE NO:              | 002-08    | LOCAL FILE # :                | TA 08-01        |
| ADDITIONAL PROPOSAL FILE:  | N         | PROPOSED :                    | Y               |
| DATE ADOPTED:              | 7/9/2008  | TOTAL TIME SPENT ON REVIEW:   |                 |
| DATE ADOPTION RECEIVED:    | 8/18/2008 | DATE LETTER SENT ON PROPOSAL: |                 |
| DATE ADOPTION NOTICE SENT: | 8/22/2008 |                               |                 |
| APPEAL DEADLINE:           | 9/5/2008  | APPEAL FILED:                 |                 |
| LUBA No. :                 |           | APPEAL DECISION:              |                 |

Amend Sections 1109.1A and 1109.3A of the Zoning Ordinance relating to requirements for elevating new and substantially damaged residential structures located in Flood Hazard Area. Change the requirement to elevate from "at or above the base flood elevation" to " one foot above the base flood elevation." Proposal received 42 days prior to First Evidentiary Hearing.

AMENDMENT TYPE: T M = Map; T = Text; B = Both  
 2008-3 FLOOD

LOCATION:

|             |              |         |       |
|-------------|--------------|---------|-------|
| # OF AREAS: | ORIGINAL USE | NEW USE | ACRES |
|-------------|--------------|---------|-------|

DESCRIPTION :

Board of Commissioners add language in Section 1105 for certain exceptions to the requirement to obtain a development permit for materials and equipment storage.

LOCALLY IDENTIFIED AGENCIES

Federal Emergency Management Agency.

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|                                  |              |                               |                   |
|----------------------------------|--------------|-------------------------------|-------------------|
| DATE PROPOSAL RECEIVED :         | 4/21/2008    | DAYS NOTICE OF EVID. HEARING: |                   |
| FIRST EVIDENTIARY HEARING DATE : | 06/02/2008   | DAYS NOTICE :                 | 51                |
| FINAL HEARING DATE :             | 6/11/2008    | CONTACT PHONE # :             | 503-397-7217 EXT: |
| LOCAL GOV CONTACT :              | Glen Higgins | NUMBER OF AMEND :             |                   |
| DATE PRO. NOTICE SENT :          |              |                               |                   |

PROPOSAL REVIEW

|                     |                |                        |
|---------------------|----------------|------------------------|
| PART. NOTICE SENT : | DEPT. PART. :  | YA                     |
| GOALS:              | 7              |                        |
| ASREVIEWER :        | CS             | ASREVIEWER2 :          |
| FINAL DATE :        | 05/23          | MAIL DATE :            |
| RESPONSE SENT :     | ASSUPERVISOR : | ASRESPONSE :           |
|                     |                | TIME SPENT ON REVIEW : |
|                     |                | FAX DATE :             |
|                     |                | 05/30                  |



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

### NOTICE OF ADOPTED AMENDMENT

August 22, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Columbia County Plan Amendment  
DLCD File Number 002-08



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: September 5, 2008**

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 Shirley, FEMA Specialist  
Gary Fish, DLCD Regional Representative  
Glen Higgins, Deschutes County

<paa> ya

# FORM 2

## D L C D NOTICE OF ADOPTION

DEPT OF

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

AUG 18 2008

(See reverse side for submittal requirements)

LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: Columbia County Local File No.: TA 08-01  
(If no number, use none)

Date of Adoption: 7-9-08 Date Mailed: 8-7-08  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 4-18-08

- 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."

The purpose is to amend sections 1109. 1A, 1109.2A, and 1109.3A of the Zoning Ordinance relating to requirements for elevating new and substancially damaged structures located in Flood Hazard areas. Change the requirement to elevate from "at or" above flood elevation to "one foot above the base flood elevation". Amend definition of "development to conform to Federal definition. Provide certain exceptions to requirement for the development permit.

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

Board of Commissioners add language in Section 1105 for certain exceptions to the requirement to obtain a development permit for materials and equipment storage.

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

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

Location: All Flood Hazard areas Acres Involved: 2400 tax lots

Specify Density: Previous: N/A New: \_\_\_\_\_

Applicable Statewide Planning Goals: Goal 7

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

DLCD File No.: 002-08 (16848) [15118]

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

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

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

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

FEMA, DLCD (Natural Hazards)

Local Contact: Glen Higgins Area Code + Phone Number: 503-397-7217

Address: 230 Strand City: St Helens, Or

Zip Code+4: 97051 Email Address: glen.higgins@co.columbia.or.us

## ADOPTION SUBMITTAL REQUIREMENTS

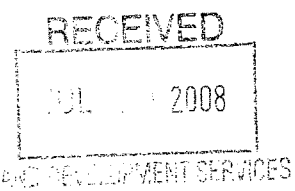
This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

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, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "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.

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BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending Sections 1102.3, )  
1105.1, 1109.1(A), 1109.2(A) and 1109.3(A) )  
of the Columbia County Zoning Ordinance )  
Relating to Requirements for Elevation of ) ORDINANCE NO. 2008-3  
Residential and Non-Residential Structures )  
Located in the Flood Hazard Overlay Zone )  
and Amending the Definition of "Development" )  
and Declaring an Emergency )

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1.            TITLE.

This Ordinance shall be known as Ordinance No. 2008-3.

SECTION 2.            AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, and 197.610 to 197.615.

SECTION 3.            PURPOSE.

The purpose of this Ordinance is to approve the proposed amendments to Columbia County Zoning Ordinance Sections 1102.3, 1105.1, 1109.1(A), 1109.2(A) and 1109.3(A) to bring the County's Zoning Ordinance into compliance with FEMA regulations and the State Building Code.

SECTION 4.            FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The Board of County Commissioners adopts Findings of Fact and Conclusions of Law contained in the Staff Report of the Department of Land Development Services dated June 6, 2008, a copy of which is attached hereto as Attachment 1, and is incorporated herein by this reference.

SECTION 5.            AMENDMENT AND AUTHORIZATION.

The Columbia County Zoning Ordinance is hereby amended as follows:

1. Columbia County Zoning Ordinance Section 1102.3 is deleted in its entirety and amended to read as follows:  
  
1102.3            "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,

drilling operations, or storage of equipment or materials located within the area of special flood hazard.

2. Columbia County Zoning Ordinance Section 1105.1 is deleted in its entirety and amended to read as follows:
  - .1 A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 1104. The permit shall be for all structures allowed by the underlying zone, including manufactured homes, as set forth in the "Definitions", and for all development including fill and other activities, also set forth in the "Definitions". The following exceptions apply for the storage of equipment or materials:
    - A. any temporary storage within any zoning district, and
    - B. permanent storage connected with residential use located out of the floodway.
3. Columbia County Zoning Ordinance Section 1109.1(A) is deleted in its entirety and amended to read as follows:
  - A. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to a minimum of one (1) foot above the base flood elevation.
4. Columbia County Zoning Ordinance Section 1109.2(A) is deleted in its entirety and amended to read as follows:
  - A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum of one (1) foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
    - (1) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - (2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
    - (3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this

subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 1106.5.

- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in 1109.1.B.
- (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

5. Columbia County Zoning Ordinance Section 1109.3(A) is deleted in its entirety and amended to read as follows:

- A. All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is a minimum of one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 1108.1.B.

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SECTION 6. EMERGENCY.

An Emergency is hereby declared to exist and this Ordinance, being immediately necessary for the health, safety and welfare of the citizens of Columbia County, shall become effective immediately upon its adoption

DATED this 9<sup>th</sup> day of July, 2008.

Approved as to Form

By: [Signature]  
Office of County Counsel

Recording Secretary  
By: [Signature]  
Jan Greenhalgh, Recording Secretary

First Reading: 7-9-08

Second Reading: 7-9-08

Effective Date: 7-9-08

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: [Signature]  
Anthony Hyde, Chair

By: [Signature]  
Joe Corsiglia, Commissioner

By: [Signature]  
Rita Bernhard, Commissioner



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# BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT

MEETING DATE: June 11, 2008

COLUMBIA COUNTY

TO: BOARD OF COUNTY COMMISSIONERS JUN 10 2008  
FROM: *SD by [Signature]* Todd Dugdale, Director of Land Development Services COUNSEL  
SUBJECT: PUBLIC HEARING: Amendments to Zoning Ordinance Section  
1100 Flood Hazard Overlay District  
DATE: June 6, 2008

## SUMMARY:

The FEMA State Coordinator and officials from FEMA have found that Columbia County Floodplain Ordinance (incorporated in the Zoning Ordinance as Flood Hazard Overlay) is not in compliance with official FEMA Guidelines. Two areas of the county ordinance need amending to comply with federal code. First, the County needs to amend the requirement to elevate the lowest floor of new or substantially damaged residential structures to **“one foot above the base flood elevation”**; and second, the County needs to amend the definition of Development to add **“or storage of equipment or materials”**.

These amendments are considered mandatory for the participating jurisdiction to be in substantial compliance with FEMA rules. The first amendment would only bring the County's Ordinance into compliance with the elevation (one foot above), which the County has already required for years. The second amendment to the definition of “Development” to include “storage of equipment or materials”, would become problematic to administer if applied to all zoning areas and uses. Staff recommends to only issue a floodplain development permit for storage of equipment or materials for those cases where a land use action is already required in the Zoning Ordinance. These cases include new commercial, industrial, community, governmental or institutional uses. Residential uses would be exempt unless the storage of equipment or materials were in the flood way. Temporary storage would also be exempt from a flood hazard development permit. The FEMA State Coordinator has reviewed these amendments and has indicated their compliance with FEMA Guidelines.

## RECOMMENDATION:

Staff recommends approval of these proposed amendments, (1) to insert “one foot above” in Section 1109 at three locations, replacing “at or above”. 2) The definition of Development would be amended to include “or storage of equipment or materials”. And (3) Section 1106 Development Permits is amended to exclude any temporary storage of equipment or materials, and to exclude residential use storage unless located in the floodway.

## ATTACHMENTS:

1. Board Staff Report TA 08-01
2. Flood Hazard Overlay with Proposed Amendments
3. Measure 56 notice

ATTACHMENT 1

# COLUMBIA COUNTY BOARD OF COMMISSION "Floodplain Ordinance"

Staff Report  
Text Amendment - - Legislative Process  
June 11, 2008 Meeting Date

FILE NUMBER: Planning File TA 08-01

APPLICANT: Columbia County  
Land Development Services  
230 Strand  
St. Helens, Oregon 97051

REQUEST: To Amend the Columbia County Zoning Ordinance, Section 1100 Flood Hazard Overlay, to bring it into Compliance State Building Code and Federal Emergency Management Agency (FEMA) Guidelines.

BACKGROUND: After the recent flood disaster of December 4, 2007, the State Floodplain Coordinator and various FEMA Officials reviewed the Columbia County Floodplain Ordinance for consistency with FEMA Guidelines. They found that the requirement to elevate the first floor to "one foot above" base flood elevation for new and substantially damaged residential structures was not incorporated in our ordinance. Our current Ordinance requires the lowest floor to be elevated "to or above" the base flood elevation. Amending our Ordinance to "one foot above" base flood elevation would make it consistent with State and Federal rules.

Should this amendment be approved there would be no net effect in the administration of this requirement for elevating the lowest floor of substantially damaged or new dwellings. Land Development Services has historically required the "one foot above" consistent with State Code and FEMA Guidelines. This one foot of freeboard is important because its in an area where heating ducts and other utility lines are usually placed. In addition, FEMA and insurance carriers have disclosed their unwillingness to pay the increased cost to elevate the structure an additional one foot because it is not required by the County Ordinance. This inconsistency needs to be cleared up.

Secondly, the State and FEMA Officials found that the County Ordinance definition of "development" did not include the "storage of equipment and materials". The Code of Federal regulations 44 CFR Part 59.1 defines: Development "as any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations or the storage of equipment or materials." The "storage of equipment and materials" was inserted in 1986 to cover auto salvage yards. Floodplain Administrators have found that equipment and materials being swept down stream in high flood events cause significant damage to anchored structures and other permanent development.

## APPLICABLE CRITERIA:

| <u>Columbia County Zoning Ordinance</u>                | <u>Page</u> |
|--|-------------|
| Section 1606 - Legislative Hearing                     | 2           |
| Section 1607 - Consistency with the Comprehensive Plan | 2           |
| Section 1611 - Notice of Legislative Hearing           | 3           |

|  |   |
|--|---|
| <u>Oregon State Statute</u>                                    |   |
| ORS 197.610 - DLCDC Review                                     | 3 |
| ORS 215.503 - Measure 56 Notice (all affected property owners) | 4 |
| <u>Code of Federal Regulations (CFR)</u>                       |   |
| CFR Title 44, Chapter 1, Part 59                               | 7 |
| <u>County Comprehensive Plan</u>                               |   |
| Part I - Administrative Procedures                             | 7 |
| Part XIX - Natural Disasters and Hazards - Floodplain          | 8 |

**FINDINGS:**

This request is being processed under Sections 1606 (Legislative Hearing) and 1611 (Notice of Legislative Hearing) of the County Zoning Ordinance. The pertinent sections of the ordinance are reviewed as follows:

"1606 Legislative Hearing: Requests to amend the text of the Zoning Ordinance...are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures:

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change."

**Finding 1:** The Board of County Commissioners initiated this Flood Plain Text amendment at their Board/Staff meeting on March 26, 2006.

Continuing with Section 1606 of the Zoning Ordinance:

- ".2 Notice of a Legislative Hearing shall be published at least twice, 1 week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners."

**Finding 2:** A hearing notice was published in the Clatskanie Chief, Daily News, St. Helens Chronicle and Spotlight newspapers on May 14, 2008 and May 21, 2008, both of which are more than 10 days prior to the Planning Commission hearing date of June 2, 2008. Notice to and request for Information & Referral was mailed to all CPAC and Water Shed Council members and all affected State, Federal and local agencies on April 24, 2008. Pursuant to ORS 215.503, Measure 56 Notice of the proposed zone change, with required statutory language, was mailed to 1,983 property owners that had an identified floodplain on their property on April 29, 2008. The Board of Commissioners had Notification of the hearing scheduled before it on June 11, 2008, published in the May 28, 2008 issue of The Chronicle, the County's newspaper of record. This criteria is satisfied.

Continuing with the Zoning Ordinance

"1607 Consistency with the Comprehensive Plan: All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice in the manner outlined in Section 1611."

**Finding 3:** The Planning Commission held a public hearing on June 2, 2008 and the Board has scheduled June 11, 2008 for a public hearing to consider the proposed amendments. The Planning Commission does not make a final decision on this matter, but rather makes a recommendation to the Board of Commissioners for the final decision. See Finding 7 and 8 for discussion of consistency with the Comprehensive Plan, Administrative Procedures and Natural Disasters - Floodplain. This Criteria is satisfied by the Board holding a hearing.

Continuing with the Zoning Ordinance:

"1611 Notice of Legislative Hearing: The notice of a legislative hearing shall contain the following items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance."

**Finding 4:** All of the above information was included in the Notice of Public Hearing published twice in the *Clatskanie Chief, Chronicle, Daily News* and *Spotlight* newspapers. Additional Notice was published for the Board of Commissioners hearing containing the above language. See Finding 2 for related publication dates and information. This criteria is satisfied.

The following Oregon Revised Statutes are applicable to this post acknowledgment ordinance amendment:

ORS 197.610 A proposal to amend a local government acknowledged comprehensive plan or land use regulation or to adopt a new regulation must be forwarded to DLCD at least 45 days before the first evidentiary hearing on adoption and contain the text and any supplemental information that the local government believes is necessary to inform DLCD as to the effect of the proposal as well as the date set for the first evidentiary hearing. When a local government determines that the goals do not apply to a particular proposed amendment or a new regulation, notice under subsection (1) of this section is not required. In addition, a local government may submit an amendment or new regulation with less 45 days' notice if the local government determines that there are emergency circumstances requiring expedited review. In both cases:

- (a) The amendment or new regulation shall be submitted after adoption as provided in ORS 197.615 (1) and (2); and

(b) Notwithstanding the requirements of ORS 197.830 (2), the director or any other person may appeal the decision to the board under ORS 197.830 and 197.845.

**Finding 5:** Since the Increased Cost of Compliance (ICC) program of FEMA relies upon the local government Ordinance in determining improvements needed for compliance with the Ordinance. The County ordinance must be amended. Land Development Services mailed a 45 day notice to DLCD as per ORS 197.610(1) on April 18, 2008. Staff therefore finds that the 45 day notice prior to the initial hearing is met. The County will mail a Notice of Adoption to DLCD if the Board approves the amendments. This criteria is satisfied.

Continuing with Oregon State Statute: ORS 215.503

215.503 Legislative act by ordinance; mailed notice to individual property owners required by county for land use actions. (1) As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.

- (2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the governing body of a county shall be by ordinance.
- (3) Except as provided in subsection (6) of this section and in addition to the notice required by ORS 215.060, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof or to adopt a new comprehensive plan, the governing body of a county shall cause a written individual notice of land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.
- (4) In addition to the notice required by ORS 215.223 (1), at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the governing body of a county shall cause a written individual notice of land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.
- (5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the governing body of the county and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:
  - (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

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**This is to notify you that (governing body of the county) has proposed a land use regulation that may affect the permissible uses of your property and other properties.**

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(b) Contain substantially the following language in the body of the notice:

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On (date of public hearing), (governing body) will hold a public hearing regarding the adoption of Ordinance Number \_\_\_\_\_. The (governing body) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number \_\_\_\_\_ is available for inspection at the \_\_\_\_\_ County Courthouse located at \_\_\_\_\_. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the (governing body) Planning Department at \_\_\_\_\_.

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(6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by the governing body of a county pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the governing body of the county shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of the property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

---

**This is to notify you that (governing body of the county) has proposed a land use that may affect the permissible uses of your property and other properties.**

---

(b) Contain substantially the following language in the body of the notice:

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As a result of an order of the Land Conservation and Development Commission, (governing body) has proposed Ordinance Number \_\_\_\_\_. (Governing Body) has determined that the adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and

may change the value of your property.

Ordinance Number \_\_\_\_\_ will become effective on (date).

Ordinance Number \_\_\_\_\_ is available for inspection at the \_\_\_\_\_ County Courthouse located at \_\_\_\_\_ . A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_ .

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the (governing body) Planning Department at \_\_\_\_\_ .

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- (7) Notice provided under this section may be included with the tax statement required under ORS 311.250.
- (8) Notwithstanding subsection (7) of this section, the governing body of a county may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.
- (9) For purposes of this section, property is rezoned when the governing body of the county:
  - (a) Changes the base zoning classification of the property; or
  - (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (10) The provisions of this section do not apply to legislative acts of the governing body of the county resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047, or resulting from an order of a court of competent jurisdiction.
- (11) The governing body of the county is not required to provide more than one notice under this section to a person who owns more than one lot or parcel affected by a change to the local comprehensive plan or land use regulation.
- (12) The Department of Land Conservation and Development shall reimburse the governing body of a county for all usual and reasonable costs incurred to provide notice required under subsection (6) of this section. [1977 c.664 §37; 1999 c.1 §1; 1999 c.348 §10; 2003 c.668 §2]

**Finding 6:** Land Development Services mailed Measure 56 notice to every property owner that had an identified flood hazard area on their property as described in Finding 2 above. The Notice contained substantially the text as required in this Statute. The Notice was mailed on April 29, 2008 which is at least 20 days but not more than 40 days before the date of the first hearing. A copy of the Notice is in the record. This criteria is satisfied.

Review of the Code of Federal Regulations (CFR) for FEMA

CFR Title 44 Emergency Management and Assistance  
Chapter 1 – Federal Emergency Management Agency (FEMA)  
Part 59 CFR 59.1 Definitions

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations or the storage of equipment or materials.

**Finding 7:** The definition of “Development” in Section 1102.3 of the Flood Hazard Overlay District contained in the County Ordinance is identical to the above federal definition with the exception of “or the storage of equipment or materials”. To qualify for the sale of federally-subsidized flood insurance the County must adopt and submit to the FEMA-State Coordinator, flood plain management regulations, which satisfy at a minimum the criteria set forth in the CFR. This proposed amendment is mandatory to continue FEMA assistance to the citizens of Columbia County.

Review of the following County Comprehensive Plan Goal & Policies:

Columbia County Comprehensive Plan has twenty one (XXI) Parts each with a set of general Goals and implementing Policies. These Goals and Policies are implemented by Ordinance, and most specifically the Columbia County Zoning Ordinance. The Flood Hazard Overlay District of the Zoning Ordinance is designed to reduce or avoid damages caused by flood, mudslide or flood related erosion. By protecting the floodplain areas, the county also helps implement other Parts of the Comprehensive Plan. To wit, the Flood Hazard Overlay provides security for Housing (Part VI), stabilization for certain areas of the Economy (Part X), protection of Open Space and Natural Resources (Part XVI), protection of the provision of Recreational Needs (Part XVII), and protection of the Air, Land and Water (Part XVIII).

The most applicable portions of the Comprehensive Plan are Part I - Administrative Procedures for Zoning Text Amendments and Part XIX Natural Disasters - Flood Plain, are reviewed below.

Part I ADMINISTRATIVE PROCEDURES

GOALS:

1. To assure the goals and policies of this plan are implemented.
2. To provide review and revision procedures which include provisions for participation by citizens and affected interest groups.
3. To provide an understandable framework for reviewing and revising this plan.

POLICIES:

5. Provide a framework by which the Comprehensive Plan may be reviewed, revised and amended. Amendments to the Comprehensive Plan and its implementing ordinance(s) shall be in



accordance with the following procedures and guidelines:

- A. Amendments may be initiated by the Board of Commissioners, the Planning Commission, the Planning Director or the owner(s) of the affected property.
- B. A Citizen Planning Advisory Committee may, upon a majority vote of its members, formally request either the Board of Commissioners or the Planning Commission initiate an amendment.
- C. Revisions or amendments will follow the same process as initial adoption - CPAC review, Planning Commission public hearing and recommendation, and Board hearing and adoption of revisions or amendments.
- D. For quasi-judicial amendments, all property owners within two hundred and fifty (250) feet of the affected area shall be notified of the hearing date and the requested amendment at least ten (10) days prior to the first scheduled public hearing.
- E. For legislative amendments, notice of the public hearing and a copy of the proposed amendment, will be mailed to all Citizen Planning Advisory Committees and interested parties at least ten (10) days prior to the first scheduled public hearing.

**Finding 8:** The Zoning Ordinance is an implementing ordinance of the Comprehensive Plan and is being proposed to be reviewed, revised and amended. This proposed amendment was initiated by the Board of Commissioners on March 26, 2008 and will follow the prescriptive path of CPAC recommendation - Planning Commission recommendation followed by final decision by the Board of Commissioners. All members of the Citizen Planning Advisory Committees were mailed notice with proposed amendments on April 18, 2008. Affected property owners were mailed Measure 56 Notice between 20 to 40 days prior to the initial hearing.

Continuing with the Comprehensive Plan Policies

Part XIX Natural Disasters and Hazards

FLOODPLAIN

GOAL:

Eliminate or reduce the economic and social costs created by flood-caused damages.

POLICY:

1. Columbia County will participate in the National Flood Insurance Program administered by the Federal Emergency Management Agency (FEMA).

**Finding 9:** The FEMA Coordinator for the State of Oregon and FEMA have found that the Columbia County Floodplain Ordinance, Section 1100 Flood Hazard Overlay of the Zoning Ordinance, needs to be

amended as proposed to be consistent with State and Federal Guidelines in order for the County to continue participating in the FEMA Flood Insurance Program.

#### COMMENTS:

The following comments have been received from various agencies as of May 23, 2008.

- 1) The St. Helens CPAC has reviewed the proposed amendments and Von Smith, as an individual, comments that he would like to see the amendment effective at the earliest possible date (emergency), for the safety and protection of all involved property owners, as well as favorable insurance rates.
- 2) The Building Official has reviewed the proposed amendments and has no objection to its approval as submitted.
- 3) The Scappoose Bay Watershed Council has reviewed the proposed amendments and comment: "The Council is supportive of increasing floodplain protection."

#### CONCLUSION, DISCUSSION AND RECOMMENDATION: -

**The Planning Commission** held a Public Hearing on June 2, 2003. Of the 21 persons attending the hearing for the proposed amendments to the Floodplain Ordinance, most testimony reflected questions about whether the proposed amendments would affect their property, the frustrations encountered with the FEMA Program, whether their property was in the Floodplain and questions concerning the rules for elevating a structure. In addition there were questions concerning whether items could be stored on their property, who would enforce any regulations and the problems that may arise. Also, three specific existing businesses were concerned about the definition of development - including the "storage of equipment and materials" because their businesses depend on the storage of manufactured materials for sale, or parking of large excavating equipment, or storage of tools and equipment used in their RV Park maintenance. After hearing the testimony and deliberating the Planning Commission understood these concerns and **recommended that more specific language be added** by excepting "equipment and materials not ordinarily impervious to submersion, buoyant transportation or saltation in moving water" from the definition of "development".

After reviewing the testimony and findings of the Planning Commission, and discussing the issue with the State Floodplain Coordinator, **Staff recommends** that instead of trying to specify what "storage of equipment and materials" is to be regulated, the County Ordinance should articulate areas of permitting by an amendment to Section 1105 Development Permits.

Staff bases this recommendation upon:

(1) A development permit is required in a flood hazard area before any new or substantial improvement is begun. Although existing uses can remain without being subject to the regulation of the Flood Hazard Overlay property owners should be forewarned of the risk associated with having structures, materials and equipment at an elevation below the base flood level. The proposed amendment would accomplish this goal.

(2) FEMA Guidelines in the Code of Federal Regulations does not prohibit or give standards for the storage of equipment or materials in the floodplain, other than a general rule of being reasonably safe from flooding and anchored to prevent damage. However, the State Floodplain Coordinator indicates that the purpose of adding "storage of equipment and materials" to the definition of development is two fold: 1) to raise public awareness about the hazard, and 2) to allow the local government to inventory the locations of potential

hazard projectile when a flood event occurs.

(3) The State Coordinator has reviewed Staff's proposed amendments concerning Development Permits, which were not included in the earlier draft Staff Reports before the Planning Commission, and agreed with them as acceptable.

Based upon the above findings, Staff **Recommends Approval** of the legislative amendment to the text of the Columbia County Zoning Ordinance Section 1100 Floodplain Overlay contained in TA08-01 as amended and submitted for Board consideration.

Attachments:

- 1) Measure 56 Notice;
- 2) Proposed amendments with strike-outs for deletions and bold for additions

**This is to notify you that the Columbia County Board of Commissioners have proposed an amended land use regulation that, if adopted, may affect the permissible uses of your property and other properties.**

The Columbia County Board of Commissioners has initiated amendments to Sections 1102.3; 1109.1A; 1109.2A; 1109.3A of the Columbia County Zoning Ordinance relating to the requirements for elevation of residential and non-residential structures located in the Flood Hazard Overlay Zone and the definition of "development". The proposed amendments would change the requirement to elevate new or substantially flood damaged residential and commercial structures from "at or above the base flood elevation" to "one foot above the base flood elevation" and would add "storage of equipment and materials" to the definition of "development" in the flood hazard area. Adoption of the proposed amendments may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

On June 2, 2008 at 6:30pm, the Columbia County Planning Commission will hold a public hearing and make a recommendation to the Board of Commissioners regarding proposed amendments. The public hearing will be located in Room 351, Circuit Courtroom in the Columbia County Courthouse, 230 Strand Street, St. Helens Oregon.

On June 11, 2008 at 10 am, the Columbia County Board of Commissioners will hold a public hearing and consider the proposed amendments for adoption. The hearing is located in the Commissioners's meeting room, Room 308 on the Third Floor of the Columbia County Courthouse, 230 Strand Street, St. Helens, Oregon. The Board of Commissioners has determined that the adoption of these amendments may affect the permissible uses of your property and other properties in the affected zone, and may change the value of your property.

The proposed amendments are available for inspection in the Land Development Services Department in the Columbia County Courthouse located in St. Helens, Oregon, 230 Strand Street, St. Helens, Oregon. A copy of the proposed amendments is available for purchase at a cost of \$2.50

For additional information concerning the proposed amendments, you may call Glen Higgins, at the Columbia County Department of Land Development Services, at (503)397-7217.

**NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER**

# **COLUMBIA COUNTY FLOOD HAZARD OVERLAY ZONE**

WITH PROPOSED AMENDMENTS

Public Hearings:

Planning Commission: June 2, 2008

Board of Commissioners: June 11, 2008

## Section 1100 FLOOD HAZARD OVERLAY

FH

1101 Purpose: 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 provisions designed:

- .1 To protect human life and health;
- .2 To minimize expenditure of public money and costly flood control projects;
- .3 To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- .4 To minimize prolonged business interruptions;
- .5 To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- .6 To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- .7 To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- .8 To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1102 Definitions:

- .1 "AREA OF SPECIAL FLOOD OVERLAY" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
- .2 "BASE FLOOD" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.
- 1102.3 "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 the area of special flood hazard.

- .4 "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.
- .5 "FLOOD INSURANCE RATE MAP (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- .6 "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.
- .7 "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.
- .8 "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 1110.1A.
- .9 "MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
- 1102.10 "NEW CONSTRUCTION" means structures for which the "start of

construction" commenced on or after the effective date of this ordinance.

- .11 "PRIMARY ZONE" means the underlying zone upon which the Flood Hazard Overlay Zone is superimposed.
- .12 "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 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.
- .13 "STRUCTURE" means a walled and roofed building including a gas or liquid storage tank that is principally above ground.
- .14 "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:
  - A. Before the improvement or repair is started, or
  - B. 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.

#### 1103 Application:

- .1 This zone shall apply to all areas of special flood hazards within the jurisdiction of Columbia County.

#### 1104 Basis for Special Flood Hazard Areas



- .1 The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Columbia County, Oregon and Incorporated areas", dated August 16, 1988, with accompanying Flood Insurance maps is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study is on file at the Columbia County Department of Land Development Services office, County Courthouse, St. Helens, Oregon.

#### 1105 Development Permit

- .1 A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 1104. The permit shall be for all structures allowed by the underlying zone, including manufactured homes, as set forth in the "Definitions", and for all development including fill and other activities, also set forth in the "Definitions". The following exceptions to the requirement to obtain a development permit apply for the storage of equipment or materials:
  - A) Any temporary storage within any zoning district, and
  - B) Storage accessory to residential use and located out of the floodway.

#### 1106 Administration

- .1 The Land Development Services Administrator, or his designee, is appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.
- .2 Duties of the Administrator shall include, but not be limited to, reviewing all development permits to determine:
  - A. That the permit requirements of this ordinance have been satisfied.
  - B. That all necessary permits have been obtained from those Federal, State, or local government agencies from which prior approval is required.
  - C. If the proposed development is located in the floodway, assure that the encroachment provisions of Section 1110) are met.

- 1106.3 When base flood elevation data has not been provided in accordance with Section 1104, Basis for Special Flood Hazard Areas, the Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 1109 Specific Standards, and 1110 Floodways.
- .4 Where base flood elevation date is provided through the Flood Insurance Study or required as in Section 1106.3, the Administrator will obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- .5 For all new or substantially improved floodproofed structures, the Administrator will:
- A. Verify and record the actual elevation (in relation to mean sea level), and
  - B. Maintain the floodproofing certifications required in Section 1109.2.A(3).
- .6 The Administrator will maintain for public inspection all records pertaining to the provisions of this ordinance.
- .7 For alteration of water courses the Administrator shall:
- A. Notify adjacent communities and the Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  - B. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

#### 1107 Interpretation of Firm Boundaries

The Administrator shall 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 of the rules and regulations of the National Flood Insurance Program (44 CFR 59-76).

DEVELOPMENT SERVICES  
COUNTY COURTHOUSE  
1000 STRAND ST.  
SEASIDE, OR 97051



Hasler

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US POSTAGE

DLCD  
Plan Amendment Specialist  
635 Capitol Street NE Suite 150  
Salem, Or 97301