



NOTICE OF ADOPTED AMENDMENT

September 21, 2010

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

FROM: Angela Houck, Plan Amendment Program Specialist

SUBJECT: Clatsop County Plan Amendment
DLCD File Number 004-10



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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, October 04, 2010

This amendment was submitted to DLCD for review 45 days prior to adoption and the jurisdiction determined that emergency circumstances required expedited review. 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 ABOVE DATE SPECIFIED.**

Cc: Jennifer Bunch, Clatsop County
Matt Spangler, DLCD Regional Representative
Jon Jinings, DLCD Community Services Specialist
Christine Shirley, FEMA Specialist

<paa> YA



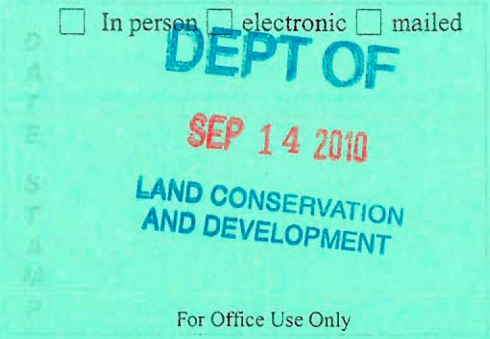


FORM 2

DLCD

Notice of Adoption

In person electronic mailed



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

For Office Use Only

Jurisdiction: **Clatsop County**

Local file number: **20100231**

Date of Adoption: **September 8, 2010**

Date Mailed: **9/13/2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: may 2010

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

On March 17, 2010, FEMA issued a Letter of Final Determination to Clatsop County for new NFIP maps requiring Clatsop County must adopt these maps by September 17, 2010. In addition, Clatsop County updated its Flood Hazard Overlay to comply with FEMA, DLCD, and Building Code requirements.

Does the Adoption differ from proposal? Please select one

One minor change removing the compensatory excavation requirement for fill in the floodplain.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

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

Local Contact: **Jennifer Bunch, CFM**

Phone: (503) 325-8611 Extension:

Address: **800 Exchange Street, Ste 100**

Fax Number: **503-338 3666**

City: **Astoria**

Zip: **97103**

E-mail Address: **jbunch@co.clatsop.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

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

September 13, 2010

NOTICE OF FINAL DECISION

File Numbers: Ordinance No. 10-03
Decision Date: September 8, 2010
Applicant: Clatsop County
Representative: Jennifer Bunch, Planner
Property Owners: Various
Action: APPROVAL
Action Described: Adoption of FEMA National Flood Insurance Rate Maps dated September 17, 2010 and text amendments to the Land and Water Development & Use Ordinance 80-14, Section 4.000

Clatsop County has completed its review of the application described above. The Board of County Commissioners approved the application on August 25, 2010. A complete copy of the decision document, including the ordinance, resolution and order, and adopted findings of fact, is available for review at the following location during normal business hours (8-5, M-F):

Clatsop County Land Use Planning Office
800 Exchange Street, Suite 100
Astoria, OR 97103

The decision document is also available for review on the Clatsop County website. To access the document online please visit the County's website at the following address, www.co.clatsop.or.us. Once on the homepage, click on the Land Use Planning page.

The requirements for appeal of this decision are set forth in ORS 197.830 to 197.845. In general, the requirements for appeal require a "Notice of Intent to Appeal" the decision, to be filed with the Oregon Land Use Board of Appeals (LUBA) in Salem, Oregon. The Notice of Intent to Appeal the decision must be filed with LUBA not later than 21 days from the date of this notice. Please call LUBA at 503-373-1265 if you have questions regarding appeal procedures.

If you have questions about this notice, please contact the Clatsop County Land Use Planning Department at (503) 325-8611.

CERTIFICATE OF MAILING

I, Jennifer Bunch, hereby certify that I mailed this Notice of Final Decision via the United States Postal Service on September 13, 2010.



Jennifer Bunch, Clatsop County Planner

9/13/2010

Date

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF CLATSOP**

In the Matter of:

AN ORDINANCE ADOPTING LEGISLATIVE
TEXT ADMENDMENTS TO THE LAND
AND WATER DEVELOPMENT AND USE
ORDINANCE 80-14 SECTION 4.000 FLOOD
HAZARD OVERLAY, AND DECLARING AN
EMERGENCY

ORDINANCE NO. 10-03

Doc # 2010090012

Recording Date: 9-10-10

RECITALS

WHEREAS, in the interest of the health, safety and welfare of the citizens of Clatsop County and pursuant to State and Federal law, the Board of Commissioners hereby determines the necessity of amending the Clatsop County Land and Water Development and Use Ordinance, Section 4.000 Flood Hazard Overlay; and

WHEREAS, the flood insurance rate maps and associated text amendments were considered by the Planning Commission at a public hearing on July 13, 2010, The Commission unanimously recommended approval, which is attached as Exhibit "PC"; and

WHEREAS, consideration for this ordinance complies with the Post Acknowledgement rules of the Oregon Land Conservation and Development Commission and the Clatsop County Planning Commission has sought review and comment and has conducted the public hearing process pursuant to the requirements of ORS 215.050 and 215.060, and the Board of Commissioners received and considered the Planning Commission's recommendations on this request and held a public hearing on August 25 and September 8, 2010, on this ordinance pursuant to law on; and

WHEREAS, public notice has been provided pursuant to law; now therefore,

THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAIN AS FOLLOWS:

SECTION 1. The Clatsop County Land and Water Development and Use Ordinance is modified to adopt the National Flood Insurance Rate Maps dated September 17, 2010.

SECTION 2. The text of the Clatsop County Land and Water Development and Use Ordinance, Section 4.000 Flood Hazard Overlay, is hereby amended to reflect the changes as recommended by Staff and

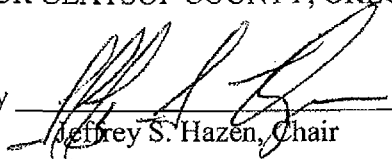
contained in the Staff Report, Exhibit *PC-A*, but omitting the section 4.025(14) "Protection of Floodplain Storage Capacity" which requires the equivalent excavation for any fill placed in the floodplain.

SECTION 3. The County must adopt the Federal Emergency Management Agency's National Flood Insurance Rate Maps by September 17, 2010 or face suspension from the flood insurance program. Therefore, an emergency is declared to exist and this ordinance shall take effect immediately upon its date of adoption.

Approved this 8th day of September, 2010

THE BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

By



Jeffrey S. Hazen, Chair

**BEFORE THE PLANNING COMMISSION
FOR THE COUNTY OF CLATSOP**

In the Matter of

LEGISLATIVE TEXT AMENDMENTS TO
THE CLATSOP COUNTY LAND AND
WATER DEVELOPMENT AND USE
ORDINANCE 80-14 SECTION 4.000 – FLOOD
HAZARD OVERLAY

RESOLUTION AND ORDER

10-07-02

THE ABOVE ENTITLED MATTER came before the Planning Commission on July 13, 2010, for a public hearing and consideration of Text Amendments to the Land and Water Development and Use Ordinance 80-14 – Section 4.000 Flood Hazard Overlay.

The Planning Commission after reviewing the findings of fact in Exhibit “A” (*Staff Report*) has determined the proposed changes are consistent with Clatsop County’s Comprehensive Plan and Statewide Planning Goals.

THE PLANNING COMMISSION considering all evidence provided by the Planning Department Staff and public testimony provided at the public hearing, hereby **RECOMMENDS APPROVAL** of the findings and text amendments as presented in “*Exhibit A - Staff Report*” attached hereto and by this reference made part hereof.

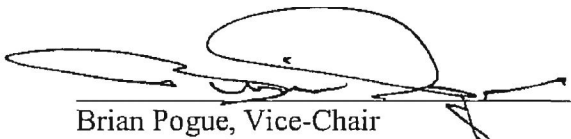
WHEREFORE, the Planning Commission finds and resolves:

To Recommend that the Board of County Commissioners adopt the Legislative Text Amendments to Section 4.000 – Flood Hazard Overlay - of Land and Water Development and Use Ordinance.

It is also recommended that the Board of County Commissioners pursue, through state and federal representatives, an explanation from FEMA as to why the appeal by Clatsop County was ignored, and why the preliminary maps were put forth despite the lack of sufficient public review and documented errors.

SO ORDERED this 13th day of July 2010

THE PLANNING COMMISSION FOR
CLATSOP COUNTY


Brian Pogue, Vice-Chair
Clatsop County Planning Commission

Clatsop County
Transportation & Development Services
Land Use Planning Division
800 Exchange Street, Suite 100
Astoria, OR 97103

ph: 503-325-8611
fx: 503-338-3666
em: comdev@co.clatsop.or.us
www.co.clatsop.or.us



“Exhibit A” Staff Report

REPORT DATE: July 6, 2010

HEARING DATE: June 13, 2009

REQUEST: Text amendments to the LWDUO 80-14 Flood Hazard Overlay and adoption of new FEMA Flood Hazard Maps.

STAFF REVIEWER: Jennifer Bunch, Planner

DEPARTMENT RECOMMENDATION: Adopt the findings of fact of the staff report and recommend approval of the text amendments to the Board of Commissioners.

- EXHIBITS:**
1. Letter of Final Determination
 2. Mailed Notice of Hearing
 3. Public Comment
 4. Current Flood Hazard Overlay Text
 5. Proposed Flood Hazard Overlay Text

I. BACKGROUND

FEMA Map Modernization

In 2003, the Federal Emergency Management Agency (FEMA) has been transforming the Nation’s flood maps in to an easier to use digital format. This map modernization project simply takes the paper maps and converts them into a digital format. At the same time these maps were begin digitized FEMA incorporated two changes: 1) a new flood study in the Seaside area involving the Neanicicum River, Neawanna Creek, and Beerman Creek, 2) Decertification of levees (dikes).

Levee De-Certification

In 2004, as FEMA began work to analyze the role of levees in flood protection. Concerns regarding the levee non-compliance with FEMA regulations began to surface and in 2005 FEMA established a committee that wrote new regulations that became 44 CFR 65.10. *Mapping of Areas Protected By Levees*. For the purposes of the National Flood Insurance Program (NFIP) FEMA will now only recognize levee systems that meet, and continue to meet, minimum design standard, operation, and maintenance standards identified by FEMA. As part of the map modernization process, FEMA now shows all diked areas in Clatsop County, once identified as being protected against the 100-year flood, now as unprotected with increased base flood elevation heights.

Timeline

Below is a timeline of the map modernization process for Clatsop County:

September 28, 2007	FEMA provides preliminary maps and study to Clatsop County.
November 8, 2007	Clatsop County holds a public informational meeting in Seaside.
February 20, 2008	FEMA publishes public notice of map change and appeal period begins.
April 29, 2008	Clatsop County hosts a public informational meeting in Astoria.
May 28, 2008	Clatsop County and the City of Warrenton submit an appeal to FEMA.
May 12, 2009	FEMA responds to the appeal stating that the appeal is being “evaluated”
July 6, 2009	FEMA issues Revised Preliminary FIRMs with minor adjustments
March 17, 2010	FEMA issues the Letter of Final Determination (LFD) to Clatsop County
July 13, 2010	Clatsop County Planning Commission Hearing – Ordinance 10-03
TBD	Clatsop County Board of Commissioners Hearing – Ordinance 10-03
September 17, 2010	Effective date of new FIS and FIRMs

On March 17, 2010, the Federal Emergency Management Agency (FEMA) presented Clatsop County with a Letter of Final Determination (LFD) for the Revised Preliminary Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMS) that were issued on July 6, 2009. Clatsop County is required to adopt the FIS and FIRMs before September 17, 2010, or face suspension from the NFIP thus making Clatsop County property owners ineligible for the renewal of flood insurance policies and the issuance of new policies.

As part of the adoption of the new FIS and FIRMs, Clatsop County is required to update its flood hazard policies to ensure compliance with State and Federal regulations.

II. EVALUATION OF APPLICABLE CRITERIA
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LWDUO 80-14

Section 2.035 Type IV Procedure.

- (1) Type IV actions are legislative processes. They involve the creation, broad scale implementation or revision of public policy. These include amendments to the text of the Comprehensive Plan, Community Plans, or Zoning Code. Large-scale changes in Community Development maps also may be characterized as legislative where a larger number of property owners are directly affected. The Type IV procedure is for use where indicated in this Ordinance.

- (2) Under the Type IV procedure, the Director shall schedule a public hearing pursuant to Section 2.105 before the Planning Commission.

- (3) The Director shall mail and publish a notice pursuant to Section 2.315.

SECTION 2.300 LEGISLATION.

Section 2.310 Legislative Action Under This Ordinance.

- (1) The following are legislative actions under this Ordinance:
 - (A) An amendment to this Ordinance.
 - (B) A district or zone change action the County Commission has designated as legislative after finding the matter at issue involves such a substantial area and number of property owners or such broad public policy changes that administrative processing would be inappropriate.
- (2) A legislative action shall follow the Type IV procedure subject to the modifications and supplements of Sections 2.310 to 2.335.

Section 2.315 Legislative Hearing Notice.

Notice of a hearing on a legislative decision under this Ordinance need not include a mailing to property owners where the matter at issue does not relate to a specific geographic area. Where such mailing or posting Staff Report

is omitted, the Community Development Director shall prepare a notice program designed to reach persons believed to have a particular interest and to provide the general public with a reasonable opportunity to be aware of the hearings on the proposal.

Department Finding:

Clatsop County is processing this text amendment as a Type IV Legislative procedure with a public hearing to be held before the Planning Commission on July 13, 2010 and an addition hearing to be held at a later date before the Board of Commissioners. Published notice was provided in accordance with Section 2.035 and 2.315. **The criteria have been met.**

C. COMPREHENSIVE PLAN TEXT AMMENDMENTS

Adoption, by reference, of the FEMA NFIP maps dated September 17, 2010 and the modifications to the text of Flood Hazard Overlay. The proposed amendments are attached as Exhibit 5.

APPLICABLE CRITERIA

COMPREHENSIVE PLAN GOALS AND POLICIES

Goal 1 Element – Citizen Involvement:

Policies

2. The Planning Commission and active Citizen Advisory Committees shall hold their meetings in such a way that the public is notified in advance and given the opportunity to attend and participate in a meaningful fashion.
5. Citizens shall be provided the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan and Implementation Measures.
7. Clatsop County shall use the news media, mailings, meetings, and other locally available means to communicate planning information to citizens and governmental agencies. Prior to public hearings regarding major Plan revisions, notices shall be publicized.
9. Public notices will also be sent to affected residents concerning zone and Comprehensive Plan changes, conditional uses, subdivisions and planned developments.

Clatsop County is processing this text amendment as a Type IV Legislative procedure with a public hearing to be held before the Planning Commission on July 13, 2010 and an addition hearing to be held at a later date before the Board of Commissioners. Published notice was provided in accordance with Section 2.035 and 2.315. On June 21, 2010, mailed notice of the Planning Commission Hearing was provided to all property owners within Special Flood Hazard Areas. **The criteria have been met.**

Department Finding:

The text amendment satisfies the applicable citizen involvement policies of the Goal 1 element of the Clatsop County Comprehensive Plan.

Goal 2 Element – Land Use Planning:

Not applicable
Staff Report

Goal 3 Element – Agricultural Lands:

Not applicable

Goal 4 Element – Forest Lands:

Not Applicable

Goal 5 Element – Open Space, Scenic, Historic Areas and Natural Resources:

Not Applicable

Goal 6 Element – Air, Water, and Land Quality:

Not Applicable.

Goal 7 Element – Natural Hazards:

Goal

To protect life and property from natural disasters and hazards.

Flood Hazard Policies

1. Clatsop County recognizes the value of an integrated flood hazard management program in order to protect human life and property and shall continue participation in the Federal Flood Insurance Program.

Analysis:

Adoption of the NFIP FIRMs and updating of the County's flood hazard policies will allow for continued participation in the NFIP.

2. Flood hazard engineering works are not the final answer to deter potential flooding; a sound land use program must precede them.
3. A floodplain ordinance shall be adopted which sets forth development standards for the floodway and areas of special flood hazard. Structures for human habitation shall be prohibited from the floodway. Structures in the floodway fringe shall be floodproofed or required to have their first floor elevated at least one foot above the 100-year flood level.

Analysis:

Adoption of the NFIP FIRMs and updating of the County's flood hazard policies will allow for implementation of updated land-use development standards in the Special Flood Hazard Areas.

4. The County shall strive to make flood hazard information available to the public to insure that owners and potential buyers of flood prone land are aware of the hazard.

Analysis:

Clatsop County offers flood hazard information on its website and WebMaps online application. The proposed text amendments to not modify or change this practice.

5. Maintenance and repair of existing flood control works shall be encouraged. Where development occurs or is planned on existing diked lands, the dikes shall be improved and maintained. Construction of new dikes for establishing future development in floodplain areas shall be discouraged.

Analysis:

The land use policies of Clatsop County currently encourage of flood control structures and discourages the construction of new dikes, except for the purposes of habitat and wetland restoration. The proposed text amendments to not modify or change this practice.

6. All future river or stream crossings shall be designed to provide adequate waterway openings and bridge clearance above flood flows. Existing roads and bridges that are subject to being undermined or washed out will be identified on maps for reference during emergency situations.

Analysis:

The flood hazard policies of Clatsop County currently require a “no-rise” certification for bridges, the proposed text amendments to not modify or change this requirement.

7. Agriculture, forestry, open space and recreation shall be preferred uses of flood prone areas.
8. Community structures such as hospitals, public schools, nursing homes, etc. will not be built in areas identified as flood prone.

Analysis:

The flood hazard policies of Clatsop County currently discourage the placement of critical facilities in the floodplain. The proposed text amendments will prohibit this development.

9. Subdivisions occurring within floodplain areas shall be encouraged to cluster land uses outside of the floodplain area leaving the floodplain in open space.

Analysis:

The flood hazard policies of Clatsop County currently encourage clustering of development in the floodplain. The proposed text amendments to not modify or change this practice.

10. Filling and construction within designated floodways shall be prohibited if it presents a danger of raising future flood levels.

Analysis:

The flood hazard policies of Clatsop County currently require a “no-rise” certification for all development in floodways. The proposed text amendments to not modify or change this requirement.

11. Transportation systems constructed in floodplains shall be designed so as to cause the least adverse hydraulic effect considering expected flood flows and debris loads.

Analysis:

In the application documents (attached, Exhibit 1), the applicant explains that the procedures used by the county to review the land use application satisfy the applicable citizen involvement policies of the comprehensive plan. Staff concurs with the applicant and adds that all requirements pertaining to the public notices (LWDUO § 2.105 - § 2.125) for this land use matter have been met.

Department Finding:

The text amendment satisfies the applicable citizen involvement policies of the Goal 7 element of the Clatsop County Comprehensive Plan.

Goal 8 Element – Recreation:

Not applicable

Goal 9 Element – Economy:

Not applicable

Goal 10 Element – Population & Housing:

Not applicable

Goal 11 Element – Public Facilities and Services:

Not applicable

Goal 12 Element – Transportation:

Not applicable

Goal 13 Element – Energy Conservation:

Not applicable

Goal 14 Element – Urbanization:

Not applicable

Goal 16/17 Elements – Estuarine Resources and Coastal Shorelands:

Not applicable

VI. PUBLIC COMMENT *Attached as Exhibit 3*

Mary and Cyril Kittelson

Staff Note: The Kittelson property is located south of Taylorville Road near the area of Westport. The revised flood maps do not make any changes in boundaries in this area but establish a Base Flood Elevation (BFE). FEMA offers the “Letter of Map Amendment” process for property incorrectly included in a Special Flood Hazard Area.

VII. CONCLUSION and RECOMMENDATION:

The department has evaluated the application materials against the appropriate criteria contained in the Clatsop County Comprehensive Plan and Land Use Ordinance. The proposed text amendments do not conflict with the applicable criteria.

The department recommends that the Planning Commission adopt the findings of fact of the staff report and recommend approval of the Text Amendment to the Board of Commissioners.

Respectfully Submitted,

Jennifer Bunch, Planner
Transportation & Development Services

Staff Report



Exhibit 1

Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P-A

March 17, 2010

Jeff Hazen
Chairman
Clatsop County Board of Commissioners
800 Exchange St., Suite #410
Astoria, Oregon 97103

Community: Clatsop County, Oregon
(Unincorporated Areas)
Community No.: 410027
Map Panels Affected: See FIRM Index

Dear Mr. Hazen:

This is to formally notify you of the final flood elevation determination for the unincorporated areas of Clatsop County, Oregon, in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood elevations shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

On July 3, 1978 the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas (SFHAs), the areas that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood), in your community. Recently, FEMA completed a re-evaluation of flood hazards in your community. On July 6, 2009, FEMA provided you with revised Preliminary copies of the Flood Insurance Study (FIS) report and FIRM that identify existing flood hazards in your community, including Base Flood Elevations (BFEs). The proposed BFEs for your community were published in *The Daily Astorian* on February 14, 2008, and February 21, 2008, and in the *Federal Register* at Part 67, Volume 73, No. 20, Page 5482, on January 30, 2008.

The statutory 90-day appeal period, which was initiated on the second newspaper publication date cited above, has ended. The proposed BFEs for your community were appealed during that time. All technical data submitted in support of the appeal have been evaluated, and the appeal has been resolved. Therefore, the BFEs for your community are considered final. The final rule for BFEs will be published in the *Federal Register* as soon as possible. The FIRM for your community will become effective on September 17, 2010. Before the effective date, FEMA will send you final printed copies of the FIS report and FIRM.

Because the FIS establishing the BFEs for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter. Prior to September 17, 2010, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d and e) of the enclosed NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(d and e) of the NFIP regulations

must be enacted in a legally enforceable document. This includes adoption of the current effective FIS and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(d and e);
2. Adopting all the standards of Paragraph 60.3(d and e) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(d and e).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended.

In addition to your community using the FIS to manage development in the floodplain, FEMA will use the FIS to establish appropriate flood insurance rates. On the effective date of the revised FIRM, actuarial rates for flood insurance will be charged for all new structures and substantial improvements to existing structures located in the identified Special Flood Hazard Areas, the areas subject to inundation by the base flood. These rates may be higher if structures are not built in compliance with the floodplain management standards of the NFIP. The actuarial flood insurance rates increase as the lowest elevations (including basement) of new structures decrease in relation to the BFEs established for your community. This is an important consideration for new construction because building at a higher elevation can greatly reduce the cost of flood insurance.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the SFHA as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based are being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIRM and FIS report for your community have been prepared in our countywide format, which means that flood hazard information for all jurisdictions within Clatsop County has been combined into one FIRM and FIS report. When the FIRM and FIS report are printed and distributed, your community will receive only those panels that present flood hazard information for your community. We will provide complete sets of the FIRM panels to county officials, where they will be available for review by your

community.

The FIRM panels have been computer-generated. Once the FIRM and FIS report are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling the FEMA Map Information eXchange (FMIX), at 1-877-FEMA MAP (1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If your community is encountering difficulties in enacting the necessary floodplain management measures, we urge you to call the Director, Federal Insurance and Mitigation Division of FEMA in Bothell, Washington, at (425) 487-4678 for assistance. If you have any questions concerning mapping issues in general or about the enclosed Summary of Map Actions, please call the FMIX, at 1-877-FEMA MAP (1-877-336-2627). Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effects that Revised Flood Hazards have on Existing Structure*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <http://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling the FMIX.

Sincerely,



Kevin C. Long, Acting Chief
Engineering Management Branch
Mitigation Directorate

Enclosure:
Final Summary of Map Actions

cc: Community Map Repository
Will Caplinger, Development Services Manager, Clatsop County

FINAL SUMMARY OF MAP ACTIONS

Community: CLATSOP COUNTY

Community No: 410027

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs) and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on September 17, 2010.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	93-RX-0092	06/04/1993	SECTION 9, T8N, R7W, WILLAMETTE MERIDIAN	4100270013A	41007C0285E
LOMA	95-10-003A	01/18/1995	PORTION OF SECTION 15, T7N, R9W	4100270023A	41007C0385E
LOMA	99-10-018A	11/04/1998	VINEMAPLE ACRES, BLOCK 1, LOTS 21-22	4100270060A	41007C0595E
LOMA	99-10-221A	03/01/1999	PARTITION PLAT NO. 1998-008, PARCEL NO. 1	4100270023A	41007C0385E
LOMA	04-10-0432A	04/09/2004	22220 LEWIS AND CLARK ROAD - PORTION OF SECTION 30, T8N, R9W, W.M.	4100270021B	41007C0240E
LOMR-F	05-10-0569A	10/04/2005	PORTION OF SECTION 8, T4N, R8W, W.M.	4100270052A	41007C0705E
LOMA	06-10-B149A	03/09/2006	90558 LOGAN ROAD - Sec 7, T7N, R9W, W.M.	4100270023A	41007C0380E
LOMA	06-10-B537A	08/17/2006	A PORTION OF Section 4, T4N, R7W, W.M. - 79490 HIGHWAY 103	4100270060A	41007C0735E

FINAL SUMMARY OF MAP ACTIONS

Community: CLATSOP COUNTY

Community No: 410027

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
LOMA	07-10-0097A	11/21/2006	99817 YOUNGS RIVER ROAD -- A portion of Sections 9, 10, 15, and 16, T7N, R9W, W.M.	4100270023A	41007C0385E
LOMA	07-10-0096A	11/30/2006	RIVER RANCH SUBDIV, Portions of BLOCKS 1, 2, 3 & 4 -- RIVER RANCH, Columbia River, & Overlook	4100270027A	41007C0340E
LOMA	07-10-0179A	01/11/2007	RIVER RANCH SUBDIV, LOT 4, BLOCK 2 -- 91810 Columbia River Road	4100270027A	41007C0340E
LOMA	08-10-0236A	04/22/2008	RIVER RANCH SUBDIV, BLOCK 2, LOT 8 -- 91836 COLUMBIA RIVER ROAD	4100270027A	41007C0340E
LOMA	08-10-0589A	07/15/2008	RIVER RANCH SUBDIV, BLOCK 2, LOT 8 -- 91830 COLUMBIA RIVER ROAD	4100270027A	41007C0340E

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new detailed flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures has changed, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Old Panel	New Panel
			NO CASES RECORDED		

Clatsop County
Transportation & Development Services
Land Use Planning
800 Exchange Street, Suite 100, Astoria, OR 97103

ph: 503-325-8611
fx: 503-338-3666



PLANNING COMMISSION NOTICE OF PUBLIC HEARING

~ ORDINANCE 10-03 ~

**An ordinance amending the text of Land and Water Development and Use Ordinance 80-14
– Section 4.000 Flood Hazard Overlay and adopting new FEMA Flood Insurance Rate Maps**

You are receiving this notice because you own property within a Special Flood Hazard Area or you are considered to be an affected state or federal agency, local government, special district, or interested party.

NOTICE IS HEREBY GIVEN that the Clatsop County Transportation & Development Services, 800 Exchange Street, Suite 100, Astoria, Oregon 97103, will be holding a public hearing to consider legislative amendments to the County's Transportation System Plan and the Land and Water Development and Use Ordinance. Pursuant to Section 2.035 of the Clatsop County Land and Water Development and Use Ordinance (LWDUO), the Department Director has scheduled a public hearing on this matter before the Planning Commission on **Tuesday, July 13, 2010, at 10:00 AM** in the Judge Guy Boyington Building located at 857 Commercial Street in Astoria, Oregon.

All interested persons may testify in person by attending the hearing, or they may testify in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX at 503-338-3666. Written comments must be received in this office prior to **5PM on Monday, July 12, 2010** in order to be considered at the public hearing.

NOTE: Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal based on that issue.

THE APPLICATION DESCRIBED:

On March 17, 2010 Clatsop County received a Letter of Final Determination from the Federal Emergency Management Agency (FEMA). This letter served as notice that the revised preliminary flood insurance rate maps (FIRM) would become effective on September 17, 2010. Clatsop County must adopt these maps by this date or face expulsion from the National Flood Insurance Program (NFIP). Expulsion from the NFIP would result in Clatsop County property owners becoming ineligible for flood insurance.

Clatsop County will also be adopting text amendments to the LWDUO 80-14 §4.000 Flood Hazard Overlay to ensure compliance with state and federal regulations.

In general, the procedure for conduct of the public hearing is as follows:

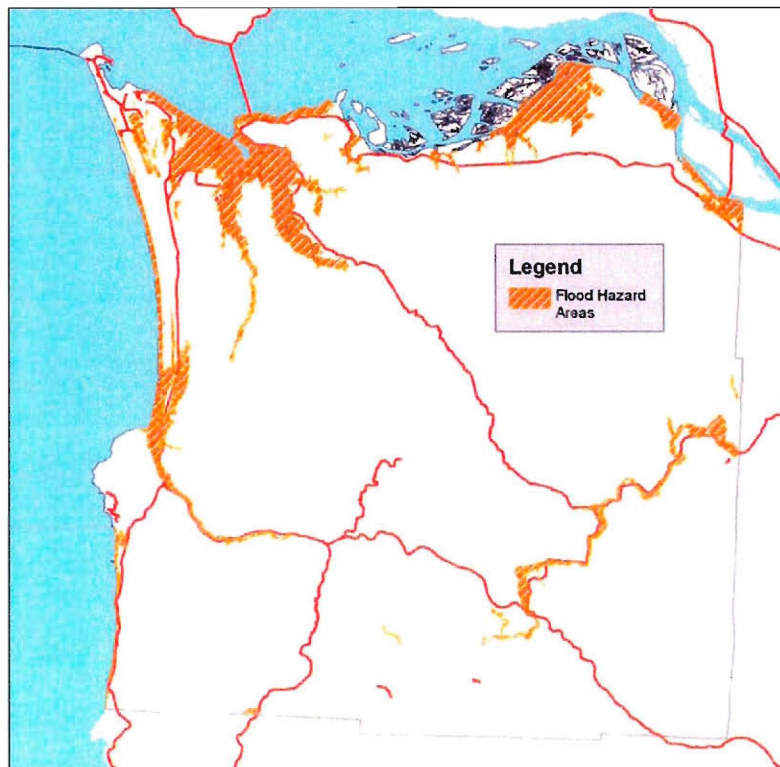
- Introductory statements by the Planning Commission Chair
- Planning Commission disclosures
- Staff report
- Testimony in favor and in opposition
- Staff comments
- Closure of hearing
- Planning Commission deliberation
- Planning Commission recommendation to the Board of Commissioners

The Clatsop County Board of Commissioners will consider Ordinance 10-03 at a later date.

A copy of the application, all documents and evidence submitted by or on behalf of the applicant (Clatsop County) and applicable criteria are available for inspection at Clatsop County Transportation and Development Services Office during normal business hours (M-F, 8-5) at no cost and will be provided at reasonable cost. These materials can also be viewed at: <http://www.co.clatsop.or.us/default.asp?deptid=12&pageid=22>

A copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and can be viewed in the office or be provided at a reasonable cost.

If you have questions about this land use matter or need more information, please contact the Clatsop County Planning representative for this matter, Jennifer Bunch, at (503) 325-8611 or jbunch@co.clatsop.or.us.



Notice to Mortgagee, Lien Holder, Vendor or Seller: ORS Chapter 215 requires that if you receive this notice it must promptly be forwarded to the purchaser.

5/29/2010

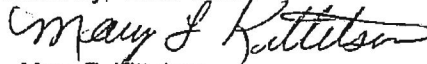
Clatsop County Transportation &
Development Services
Land use Planning
200 Exchange St., Suite 100
Astoria, or. 97103

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JUN 30 2010
Community
Development
CLATSOP COUNTY

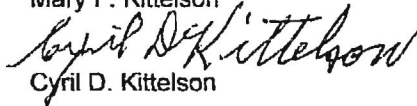
Dear Board of Commissioners:

In regards to Ordinance 10-03 Pursuant to Section 2.035 of the Clatsop County Land and Water Development . We am very much Opposed to our land being considered in a Flood Hazard area. I have lived in the Taylorville area since 1955. Our land has never flooded. My brother's and I have owned land since 1959 in this area and it has never flooded, or been in danger of flooding.
Tax lot account # 18676
Tax lot Account #18675
Tax lot Account #18660

Sincerely, Land Owner



Mary F. Kittelson



Cyril D. Kittelson

172 Dakota Dr.
Castle Rock, WA

July 12, 2010

CLATSOP COUNTY PLANNING COMMISSION
800 Exchange Street, Suite 100
Astoria, OR 97103



To whom it may concern:

The purpose of this letter is to point out some discrepancies in the revised PRELIMINARY FLOOD RATE INSURANCE MAPS.

PERSONAL RESEARCH CONCERNING THE AREA SOUTH OF THE INTERSECTION OF HIGHWAY 101 AND BEERMAN CREEK HAS NOT SHOWN HOW BASELINE DATA AND BOUNDARIES FOR FLOOD AREAS HAS BEEN DETERMINED BY FEMA.

REGARDING THE DISCREPANCIES MENTIONED ABOVE: FEMA MAP # 41007C0508E INDICATES THAT I NEED TO BUILD AT APPROXIMATELY 26' ELEVATION. THE PRESENT HOUSE HAS BEEN IN MY FAMILY SINCE THE EARLY 1920'S, HAS NEVER FLOODED OR HAD WATER ON THE HOME SITE.

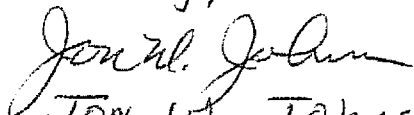
For those familiar with the area the FEMA indicates a base line elevation in the field East of Highway 101, that does flood annually, to have a base line elevation of twenty-two feet. Also Circle Creek Camp Ground Area has a base line elevation of twenty feet.

This information and observation indicate serious discrepancies in the preliminary FEMA Insurance Rate Maps,

I urge you to please research these and other problems before adopting criteria that will have such a profound impact on property owners, tax payers and citizens of Clatsop County.

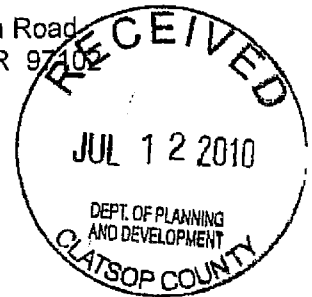
Thank you for your time and consideration.

Sincerely,


Jon W. Johnson

33225 Boerman Creek Lane
Seaside, Or. 97138

John Piatt
79896 Cannon Road
Arch Cape, OR 97102



Clatsop County Transportation & Development Services
800 Exchange Street, Suite 100
Astoria, OR 97103

Re: Planning Commission Adoption of FEMA Flood Insurance Rate Maps

The Federal Emergency Management Agency (FEMA) has established design requirements for buildings located in flood hazard zones. The south end of Arch Cape contains an AH coastal flood hazard zone (see attached) with a potential for shallow flooding with average depths of 1 to 3 feet with a less than 1% probability of flooding in any year. In the book, The Arch Cape Chronicles, which covers the history of Arch Cape back some 90 years, there is no record of such flooding in the south end of Arch Cape. While this doesn't mean that such flooding can't happen, it suggests there are physical reasons that such flooding has not happened.

The local topography in the vicinity of Maxwell Lane slopes down gradually from the vegetated dune along the edge of the beach, east to a wetland along Highway 101 which drains south to Arch Cape Creek. A rogue wave of sufficient height to crest the berm would flow east into this drainage. Short of a Tsunami, there is little chance of the type of flood water accumulation characterized by an AH flood hazard zone.

Due to hydrodynamic pressure, a rogue wave cresting the beachside dune or natural berm could still damage residences if they were impacted by such a wave. FEMA's Coastal Construction Manual anticipates waves of up to 3 feet in an AH flood hazard zone. A three foot wave cresting the berm would quickly decrease in height as it spreads out on the other side. The further from the berm, the lower the wave height would be.

While the specifics of the revised Flood Insurance Rate Maps may be beyond the scope of your meeting, I would appreciate it if you could communicate this information to responsible FEMA staff with whom you are working.

Sincerely,
John Piatt

Note: Should you need to reach me, I am temporarily working in California:

3080 Sedona Street, #121
Rosamond, CA 93560
Work: 661-276-7576 (NASA)
Apt: 661-256-1393

SECTION 4.000. FLOOD HAZARD OVERLAY DISTRICT (/FHO)

Section 4.010. Purpose

The purpose of the flood hazard overlay district is to identify those areas of the County subject to the hazards of periodic flooding and establish standards and regulations to reduce flood damage or loss of life in those areas. This district shall apply to all areas of special flood hazards within the unincorporated areas of Clatsop County as identified on Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway Maps. In advancing these principles and the general purposes of the Clatsop County Comprehensive Plan, the specific objectives are: (1) To promote the general health, welfare and safety of the County; (2) To prevent the establishment of certain structures and land uses unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards; (3) To minimize the need for rescue and relief efforts associated with flooding; (4) To help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions; (5) To minimize damage to public facilities and utilities located in flood hazard areas; (6) To insure that potential home and business buyers are notified that property is in a flood area.

Section 4.011. Definitions

The following words and phrases shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application:

“AREA OF SHALLOW FLOODING” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depth range is from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“AREA OF SPECIAL FLOOD HAZARD” means the land in the flood plain subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

“BASE FLOOD” means the flood having a one percent chance of being equaled or exceeded in any given year.

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

“BREAKAWAY WALL” means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“COASTAL HIGH-HAZARD AREA” means the area subject to high velocity waters, including but not limited to, storm surge or tsunamis. The map is designated on a FIRM (Flood Insurance Rate Map) as zone V, V1, V30 or VE zone.

“CRITICAL FACILITIES” means those structures or facilities which produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials; hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and public and private facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

“DEVELOPMENT” means any manmade change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of Clatsop County’s floodplain management regulations (1980). The “construction of facilities includes, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

“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 HAZARD BOUNDARY MAP” means the official map used by the Federal Emergency Management Agency (FEMA) where the boundaries of the areas of special flood hazard have been designated.

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Emergency Management Agency (FEMA) has delineated areas of special flood hazards.

“FLOOD INSURANCE STUDY” means the official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

“FLOOD PROOFING” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“HIGHEST ADJACENT GRADE” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“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 chapter.

“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. The term manufactured home does not include a recreational vehicle.

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

“MEAN SEA LEVEL (MSL)” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the flood insurance rate map are referenced.

“NEW CONSTRUCTION” means the structures for which the “start of construction” commenced on or after the effective date of the ordinance codified in this section.

“NEW MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the adoption of this chapter.

“RECREATION VEHICLE” means a vehicle which is (1) built on a single chassis, (2) four hundred square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light-duty truck, and (4) primarily designed as temporary living quarters for recreational, camping, travel or seasonal use and not for use as a permanent dwelling.

“REGULATORY 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 a designated height.

“SPECIAL FLOOD HAZARD AREA (SFHA)” means areas subject to inundation from the waters of a one-hundred-year flood.

“START OF CONSTRUCTION” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within one hundred eighty 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 a 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 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, as well as a manufactured home.

“SUBSTANTIAL DAMAGE” means the damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

“SUBSTANTIAL IMPROVEMENT” means any combination of repair, reconstruction, or improvement of a structure, taking place during the life of the structure the cumulative 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 correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 4.012. Establishment of Flood Zones

The areas of special flood hazard identified by the Federal Insurance Administration through a scientific and engineering report entitled "Flood Insurance Study" for Clatsop County dated July 3, 1978 with accompanying Flood Insurance Rate Maps (FIRM) and Flood Boundary Maps and any revisions thereto are hereby adopted by reference and declared to be part of this Ordinance.

Section 4.013 Requirements For a Development Permit

A development permit shall be required in conformance with the provisions of this chapter and processed pursuant to Section 4.014. The permit shall be for all structures including manufactured homes, as set forth in Section 4.011 "Definitions" and for all other development including fill and other activities, also as set forth in the Section 4.011 "Definitions". Application for a Development Permit shall be made to the Community Development Director on forms furnished by them and shall specifically include the following information:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
- (2) Elevation in relation to mean sea level to which any structure has been flood proofed.
- (3) Certification by a registered professional engineer or architect that any non-residential flood proofed structure meets the flood proofing criteria in Section 4.030(2).
- (4) Description of the extent to which any water course will be altered or relocated as a result of proposed development.

Section 4.014 Development and Use Permitted

Development permits shall be subject to the standards of Section 4.028 -4.036 and be processed as a Type I procedure.

Section 4.015 Duties and Responsibilities

The duties of the Community Development Director shall include, but not be limited to the following:

- (1) Review all applications to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all applications to insure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all applications in the area of special flood hazard to determine if the proposed development adversely affects the flood-carrying capacity of the special flood hazard area.

Section 4.016 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 4.012, the Community Development Director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, as criteria for requiring that new construction, substantial improvements, or other development comply with Section 4.030.

Section 4.018 Information to be Obtained and Maintained by Community Development Director

Where base flood elevation data is provided through the flood insurance study or obtained as provided in Section 4.016, the Community Development Director shall:

- (1) Verify and record the actual elevations (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and b. whether or not the structure contains a basement.
- (2) For all new or substantially improved flood proofed structures:
 - (A) Verify and record the actual elevation (in relation to mean sea level), to which the structure was flood proofed, and
 - (B) Maintain the flood proofing certifications required in Section 4.013.
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.
- (4) In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored-pilings or columns in order to withstand velocity waters.

Section 4.019 Compliance

No structure or land shall be located, extended, converted or altered without full compliance with the terms of the ordinance codified in this chapter and other applicable regulations.

Section 4.020 Alteration of Water Courses

The Community Development Director shall:

- (1) Notify adjacent communities and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said water course so that the flood carrying capacity is not diminished.

Section 4.022 Interpretation of FIRM Boundaries

The Community Development Director shall make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in this Ordinance.

Section 4.024 Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.

This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create a liability on the part of Clatsop County or by an officer, or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

Section 4.025 Appeals

An appeal of a Community Development Director decision pursuant to this chapter may be appealed in accordance with Section 2.230

Section 4.026 Variances

A request for a variance from a standard contained in this chapter shall be reviewed in accordance with the procedures of Section 5.130 - 5.134. The following standards are applicable to a variance request, not those of Section 5.132:

- (1) Variances shall only be issued upon:
 - (A) a showing of good and sufficient cause,
 - (B) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (C) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances may be issued for the repair or rehabilitation of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure without regard to the procedures set forth in the remainder of this section. The criteria of Section 4.026(1) shall not be applied to historic structures.
- (5) When a variance is granted, the county shall give written notice to the property owner within five days after the decision is final. The notice shall state that:
 - (A) the structure or manufactured home will be allowed to be built or placed with the lowest floor elevation at or below the base flood elevation, and
 - (B) that the issuance of the variance to construct a structure below the base flood level will result in increased premium rates for flood insurance as high as twenty-five dollars for every one hundred dollars of insurance coverage, and
 - (C) such construction below the base flood level increases the risk to life and property. The above notification shall be maintained with a record of all variance actions.
- (6) Variance Time Limit. Authorization of a variance shall conform to the requirements of Section 5.134.

Section 4.028 General Standards

In all areas of special flood hazards as presented on the FIRM, the following standards shall apply for all new construction and substantial improvements:

- (1) Anchoring:
 - (A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- (B) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - 1) Over-the-top ties be provided at each end of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring one additional tie per side.
 - 2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four additional ties per side.
 - 3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - 4) Additions to the manufactured home be similarly anchored.
- (C) An alternative method of anchoring may involve a system designed to withstand a wind force of ninety (90) miles per hour or greater. Certification must be provided to the Building Official that this standard has been met.
- (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 or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (C) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be elevated to one foot above flood level 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 system.
 - (B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
 - (C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (4) Subdivision Proposals:
 - (A) All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - (C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
 - (D) Base flood elevation data shall be provided for subdivision proposals and other proposed developments of fifty lots or greater or five acres, whichever is less.
- (5) Critical Facilities:
 - (A) Critical facilities shall be constructed on properly compacted fill and have the lowest floor (including basement) elevated at least one foot above the elevation of the 500-year flood.
- (6) Review of Development Permits:
 - (A) Where elevation data is not available, either through the flood insurance study or from other administrative source, applications for development permits shall be

reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc. where available. Failure to elevate to at least two feet above grade in these zones may result in higher insurance rates.

Section 4.030 Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided, the following provisions are required:

- (1) Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding 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 (1) 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 (1) foot above grade; and
 - (C) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic flow of floodwaters in both directions.
- (2) Non-Residential Construction: New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:
 - (A) be flood proofed so that below this level the structure is water tight with walls substantially impermeable to the passage of water;
 - (B) have structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (C) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certification shall be provided as set forth in Section 4.018(2). Fully enclosed areas below the lowest floor that are subject to flooding 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:
 - 1) a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - 2) the bottom of all openings shall be no higher than one (1) foot above grade; and
 - 3) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic flow of floodwaters in both directions.

- (3) Foundation Protection: A registered professional civil engineer shall develop or review the structural design, specifications and plans for the foundation of the building and shall certify that the design and methods of construction are in accordance with accepted practices to withstand flotation, collapse, lateral movement, erosion and scour, undermining, and the effects of water and wind acting simultaneously on all building components during the base flood.
- (4) Protection of Floodplain Storage Capacity: Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. Any such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.
- (5) Manufactured Homes:
 - (A) Manufactured homes that are to be placed or substantially improved on sites within Zone A1-A30, AH, and AE and located:
 - 1) outside of a manufactured home park or subdivision,
 - 2) in a new manufactured home park or subdivision
 - 3) in an expansion of an existing manufactured home park or subdivision or
 - 4) in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.
 - (B) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE that are not subject to provision of (5)(A) above shall be elevated so that either:
 - (6) the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement; or
 - (7) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - (C) No manufactured home shall be placed in a coastal high hazard area, except in an existing manufactured home park or existing manufactured home subdivision.
- (8) Recreation Vehicle: All recreational vehicles to be placed on sites within zone A1-30, AH, AO and AE shall either:
 - (A) be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use; or,

(B) meet the permit requirements of Section 4.013 and the elevation and anchoring requirements for manufactured homes listed in Section 4.030.3. A recreation 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.

(9) Standards for Accessory Structures and Uses

(A) Residential accessory structures shall require a development permit pursuant to Section 4.013. If the accessory structure is valued at more than 10% of the residential structure, all requirements of the flood hazard overlay district shall apply. Otherwise, the applicant need not satisfy the submittal requirements of Section 4.013(1)–(4) or the standards of Sections 4.028 and 4.030, provided that:

- 1) The floor area of all floors of the accessory structure totals 600 square feet or less.
- 2) The accessory structure shall be used only for parking and storage.
- 3) The accessory structure shall be designed to have low flood damage potential.
- 4) The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
- 5) The accessory structure shall be firmly anchored to prevent flotation that may result in damage to other structures.
- 6) All service facilities, such as electrical and heating equipment associated with the accessory structure, shall be elevated to a height of one foot above the base flood elevation.

(B) When accessory structures built under the provisions of this section exceed a value greater than ten (10) percent of the value of the principal residential structure, substantial increases in insurance rates may result.

Section 4.032 Floodway

Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area to the velocity of flood waters which carry debris, potential projectiles, erosion potential, the following provisions apply:

(1)

(A) Encroachments, including fill, new construction, substantial improvements, and other development is prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. A registered civil engineer shall certify all analysis.

- (B) Fish enhancement structures shall be permitted where a qualified hydraulic or hydrology professional provides a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practicable and that no structure will be impacted by the development. In making the determination that the project was designed to keep any rise in 100-year flood levels as close to zero as practicable and that no structure will be impacted by the development, the analysis shall have considered the cumulative impact of the proposed project in conjunction with other developments that have been approved in the floodway in the vicinity of the proposed project.
- (2) The county may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the county first applies for a conditional FIRM and floodway revision, fulfils the requirements for such revisions and receives the approval of the Federal Emergency Management Agency.
- (3) If Section 4.032 (1) or (2) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 4.028 and 4.030.
- (4) Where no regulatory floodway is designated, no new construction, substantial improvement, or other development, including fill, shall be permitted within the A1-30 and AE zones unless it is demonstrated that the cumulative effect of the proposed development, when combined with other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point in the community.

Section 4.034 Coastal High Hazard Area

Coastal high hazard areas (Zones V1-30, VE and V) are located within the areas of special flood hazard. These areas have special flood hazards associated with high velocity waters from tidal surges, and therefore, in addition to meeting all applicable provisions in this chapter, the following provisions shall also apply:

- (1) All new construction and substantial improvements shall be elevated on pilings and columns so that:
- (A) The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood level, and
- (B) The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval);
- (C) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (1)(A) and (1)(B) above.

- (2) The Planning Department shall obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures and whether or not such structures contain a basement. A record of all such information shall be retained.
- (3) All new construction shall be located landward of the reach of mean high tide.
- (4) All new construction and substantial improvements shall have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood latticework or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - (A) breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - (B) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (one-hundred-year mean recurrence interval).
- (5) If breakaway walls are utilized, such enclosed space shall be useable solely for parking of vehicles, building access or storage. Such space shall not be used for human habitation.
- (6) The use of fill for structural support of buildings is prohibited.
- (7) Manmade alteration of sand dunes which would increase potential flood damage is prohibited.
- (8) No manufactured home shall be placed in a coastal high hazard area, except in an existing manufactured home park or existing manufactured home subdivision. Such a manufactured home shall be placed in conformance with the requirements of Section 4.030.5(B).
- (9) Recreational vehicles shall be placed on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use. A recreation 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.

Section 4.036 Specific Standards for Areas of Shallow Flooding (AO and AH Zone)

In all areas of special flood hazards designated as areas of shallow flooding, the following provisions shall apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor including basement elevated to one foot plus the depth number specified on the FIRM above the highest adjacent grade on the property. The adjacent grade is defined to be the natural or existing grade of the site prior to the proposed site alteration. If no depth number is specified on the FIRM, the lowest floor including basement shall be elevated to at least two feet above the highest adjacent grade.
- (2) All construction and substantial improvement of non-residential structures shall:
 - (A) Have the lowest floor including basement elevated to one foot plus the depth number specified on the FIRM above the highest adjacent grade on the property. The adjacent grade is defined to be the natural or existing grade of the site prior to the proposed site alteration. If no depth number is specified on the FIRM, the lowest floor including basement shall be elevated to at least two feet above the highest adjacent grade; or
 - (B) Together with attendant utility and sanitary facilities be completely flood proofed to meet the flood proofing standard of Section 4.030(2)
- (3) Provide adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

ARTICLE 4. SPECIAL DISTRICTS

SECTION 4.000. FLOOD HAZARD OVERLAY DISTRICT (/FHO)

Section 4.010. Purpose

The purpose of the flood hazard overlay district is to identify those areas of the County subject to the hazards of periodic flooding and establish standards and regulations to reduce flood damage or loss of life in those areas. This district shall apply to all areas of special flood hazards within the unincorporated areas of Clatsop County as identified on Flood Insurance Rate Maps (FIRM) and Flood Boundary and Floodway Maps. In advancing these principles and the general purposes of the Clatsop County Comprehensive Plan, the specific objectives are: (1) To promote the general health, welfare and safety of the County; (2) To prevent the establishment of certain structures and land uses unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards; (3) To minimize the need for rescue and relief efforts associated with flooding; (4) To help maintain a stable tax base by providing for sound use and development in flood-prone areas and to minimize prolonged business interruptions; (5) To minimize damage to public facilities and utilities located in flood hazard areas; (6) To insure that potential home and business buyers are notified that property is in a flood area.

Section 4.011. Definitions

The following words and phrases shall be interpreted so as to give them the meanings they have in common usage and to give this chapter its most reasonable application:

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

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

“**AREA OF SHALLOW FLOODING**” means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depth range is from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

“**AREA OF SPECIAL FLOOD HAZARD**” is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zone designations on FIRMs include the letters A or V. Also known as the Special Flood Hazard Area (SFHA)

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

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

“BELOW-GRADE CRAWLSPACE” means an enclosed area below the base flood elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

“BREAKAWAY WALL” means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“BUILDING” means a building or structure subject to building codes.

“BUILDING CODES” means the combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

“COASTAL HIGH-HAZARD AREA” means the area subject to high velocity waters, including but not limited to, storm surge or tsunamis. The map is designated on a FIRM (Flood Insurance Rate Map) as a “V” zone.

“CRITICAL FACILITIES” means those structures or facilities which produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials; hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood; police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and public and private facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood.

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

“DEVELOPMENT” means any manmade change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard. Development does not include:

- A. Signs, markers, aids, etc. placed by a public agency to serve the public
- B. Driveways, parking lots, or other open space use areas where no alteration of topography occurs;
- C. Minor repairs or improvements to existing structures provided that the alterations do not increase the size or intensity of use, and do not constitute repair of substantial damage, or substantial improvement as defined in this section;
- D. Customary dredging associated with routine channel maintenance consistent with State or Federal laws and permits;
- E. Replacement of utility facilities necessary to serve established and permitted uses;
- F. Accessory residential or noncommercial structures less than 200 square feet in area;
- G. Storage of equipment and material associated with residential uses.

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

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

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

“EXISTING BUILDING OR STRUCTURE” means a structure for which the “start of construction” commenced before 1980.

“EXISTING MANUFACTURED HOME PARK OR SUBDIVISION” means one in which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed is completed before the effective date of Clatsop County’s floodplain management regulations (1980). The “construction of facilities includes, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

“FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)” means the agency with the overall responsibility for administering the National Flood Insurance Program.

“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 HAZARD BOUNDARY MAP” means the official map used by the Federal Emergency Management Agency (FEMA) where the boundaries of the areas of special flood hazard have been designated.

“FLOOD INSURANCE RATE MAP (FIRM)” means the official map on which the Federal Emergency Management Agency (FEMA) has delineated areas of special flood hazards.

“FLOOD INSURANCE STUDY (FIS)” means the official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

“FLOOD PROOFING” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“FLOODPLAIN ADMINISTRATOR” means the Director of Transportation and Development Services, or an individual or committee that is designated by the Director, to implement and administer the provisions of this ordinance.

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

“HIGHEST ADJACENT GRADE” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“HISTORIC STRUCTURE” means a structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register, or;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district, or;
- (c) Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior, or;
- (d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

“LATERAL ADDITION” means an addition that requires a foundation to be built outside of the foundation footprint of the existing building.

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

Letter of Map Amendment (LOMA)

A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR)

A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure of parcel has been elevated by fill above the base flood elevation and is excluded from the special flood hazard area.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

“LOWEST FLOOR” 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 chapter.

“MANUFACTURED DWELLING” (aka manufactured housing) 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. The term “manufactured dwelling” does not include a recreational vehicle.

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

“MEAN SEA LEVEL (MSL)” means the North American Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on the flood insurance rate map are referenced.

“NATURAL ELEVATION” means the elevation of natural grade, or the grade in existence before September 17, 2010.

“NEW CONSTRUCTION” means a structure for which the “start of construction” commenced after 1980 and includes subsequent substantial improvements to the structure.

“NEW MANUFACTURED HOME PARK OR SUBDIVISION” means a manufactured home park or subdivision for which the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the adoption of this chapter.

“RECREATION VEHICLE” means a vehicle which is (1) built on a single chassis, (2) four hundred square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towed by a light-duty truck, and (4) primarily designed as temporary living quarters for recreational, camping, travel or seasonal use.

“SPECIAL FLOOD HAZARD AREA (SFHA)” means areas subject to inundation from the waters of a one-hundred-year flood.

“START OF CONSTRUCTION” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within one hundred eighty 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 a 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 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, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

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

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

- (1) the appraised value of the structure prior to the start of the initial repair or improvement, or
- (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred “substantial damage”, regardless of the actual amount of repair work performed. The term does not include either:
 - (a) A project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
 - (b) Alteration of an Historic Structure, provided that the alteration will not preclude the structure's continued designation as an Historic Structure.

“VERTICAL ADDITION” means the addition of a room or rooms on top of an existing building.

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

“WATER SURFACE ELEVATION” means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

Section 4.012. Basis for Area of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in its "Flood Insurance Study" for Clatsop County dated September 17, 2010 with accompanying Digital Flood Insurance Rate Maps (DFIRM) and other supporting data are hereby adopted by reference and declared to be part of this Ordinance. The FIS and the DFIRM are on file at the Clatsop County office of Transportation and Development Services.

Section 4.013 Compliance

No structure or land shall be located, extended, converted or altered without full compliance with the terms of the ordinance codified in this chapter and other applicable regulations.

A Floodplain Development Permit shall be required prior to initiating development activities in the Area of Special Flood Hazard subject to the standards of Section 4.028 -4.036 and be processed as a Type I procedure.

Section 4.014 Coordination with Building Codes

Pursuant to the requirement established in State statute that Clatsop County administers and enforces the State building codes, Clatsop County does hereby acknowledge that the State building codes contain certain provisions that apply to the design and construction of buildings and structures located in the Area of Special Flood Hazard. Therefore, this ordinance is intended to be administered and enforced in conjunction with the State building codes.

Section 4.015 Interpretation

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body, and;
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes, including state building codes.

Section 4.016 Floodplain Administrator Duties and Responsibilities

The Floodplain Administrator duties shall include, but not be limited to the following:

- (1) Review all development permit applications to determine whether proposed new development will be located in Areas of Special Flood Hazard;
- (2) Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this ordinance;
- (3) Interpret flood hazard area boundaries, provide available flood hazard information, and provide base flood elevations, where they exist;
- (2) Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal, state, and local law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be provided and maintained on file.
- (3) Review all development permit applications for property in a Special Flood Hazard Area to determine if the proposed development is located in the floodplain or floodway, and if so, ensure that the encroachment standards of Section 4.026.
- (4) When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer the provisions of this ordinance.
- (5) When Base Flood Elevations or other current engineering data are not available, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site will be reasonably safe from flooding.
- (9) Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in

Section 4.021.

- (10) Issue floodplain development permits when the provisions of this ordinance have been met, or disapprove the same in the event of noncompliance;
- (11) Coordinate with the Building Official to assure that applications for building permits comply with the requirements of this ordinance;
- (12) Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures.
- (13) Obtain, verify and record the actual elevation, in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no BFE is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect;
- (14) Ensure that all records pertaining to the provisions of this ordinance are permanently maintained in the office of Transportation and Development Services and shall be open for public inspection.
- (15) Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a floodplain development permit, ensure that development is undertaken in accordance with this ordinance, and verify that existing buildings and structures maintain compliance with this ordinance;
- (16) Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure;
- (17) Make Substantial Damage or Substantial Damage determinations based on criteria set forth in Section 4.023 of this ordinance.

Section 4.017 Alteration of Water Courses

- (1) The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a floodplain development permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.
- (2) The applicant shall notify adjacent communities, the U.S. Army Corps of Engineers, Oregon Department of State Lands, and Oregon Department of Land Conservation and Development prior to any alteration or relocation of a water source. Evidence of notification must be submitted to the floodplain administrator and to the Federal Emergency Management Agency.
- (3) The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished.
- (4) The applicant shall meet the requirements to submit technical data in Section 4.032 when the alteration of a watercourse, including the placement of culverts, results in the relocation or elimination of the special flood hazard area.

Section 4.018 Non-Conversion of Enclosed areas below the Lowest Floor

To ensure that the areas below the BFE continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the Floodplain Administrator shall:

- (1) Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;
- (2) Enter into a “NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS” or equivalent with Clatsop County. The agreement shall be recorded with the Clatsop County Clerk as a deed restriction. The non-conversion agreement shall be in a form acceptable to the Floodplain Administrator and County Counsel; and
- (3) Have the authority to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least 72 hours.

Section 4.019 Floodplain Inspection and Enforcement

- (1) The Administrator or designee shall make periodic inspections of floodplain areas to establish that development activities within the floodplain are being performed in compliance with an approved floodplain development permit. The Administrator or designee shall prepare a field report listing non-complying conditions to be delivered to the Code Compliance Officer within 5 business days.
- (2) Upon receipt of the report:
 - (A) The Code Compliance Officer shall take action in accordance with Clatsop County Code of Regulations Chapter 4 – Section 38 to effect the abatement of such violation; or
 - (B) The property owner shall apply for a variance in accordance with the provisions of Section 4.024 (Variance Procedures) herein.
- (3) If the violation is not resolved through the code enforcement or variance procedure the Floodplain Administrator shall request to the Administrator of Federal Insurance Administration a declaration for denial of insurance, stating that the property is in violation of a cited statute or local law, regulation or ordinance, pursuant to section 1316 of the National Flood Insurance Act of 1968 as amended.

Section 4.020 Warning and Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.

This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create a liability on the part of Clatsop County or by an officer, or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

Section 4.021 Appeals

An appeal of a Floodplain Administrator decision pursuant to this chapter may be appealed in accordance with Section 2.230. Appeals of a decision by the Code Enforcement Officer pursuant to this chapter may be appeal in accordance with Clatsop County Code of Regulations, Chapter 4 – Section 38.

Section 4.022 Permit Procedures

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by the Administrator or the Administrator's designee prior to starting development activities. Specifically, the following information is required:

(1) Application Stage

- (A) Plans in duplicate drawn to scale with elevations of the project area and the nature, location, dimensions of existing and proposed structures, earthen fill placement, storage of materials or equipment and drainage facilities.
- (B) Delineation of flood hazard areas, floodway boundaries including base flood elevations, or flood depth in AO zones, where available;
- (C) For all proposed structures, elevation in relation to the highest adjacent grade and the base flood elevation, or flood depth in AO zones, of the:
 - (i) lowest enclosed area, including crawlspace or basement floor;
 - (ii) bottom of the lowest horizontal structural member in coastal high hazard areas (V Zones);
 - (iii) top of the proposed garage slab, if any, and;
 - (iii) next highest floor
- (D) Locations and sizes of all flood openings;
- (E) Elevation to which any non-residential structure will be flood-proofed;
- (F) Certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the NFIP and building codes;
- (G) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;

(2) Construction Stage

- (A) For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction .
- (B) Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

(3) Certificate of Occupancy

- (A) In addition to the requirements of the building codes pertaining to certificate of occupancy, prior to the final inspection the owner or authorized agent shall submit the following documentation that has been prepared and sealed by a registered surveyor or engineer;
 - i. For elevated buildings and structures in non-coastal Areas of Special Flood Hazard (A zones), the elevation of the lowest floor, including basement or where no base flood elevation is available the height above highest adjacent grade of the lowest floor;
 - ii. For buildings and structures in coastal Areas of Special Flood Hazard (V zones), the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor.
- (B) Failure to submit certification or failure to correct violations shall be cause for the Building Official to withhold a certificate of occupancy or delay a final building

inspection until such deficiencies are corrected.

(4) Expiration of Floodplain Development Permit

- (A) A floodplain development permit shall expire 180 days after issuance unless the permitted activity has been substantially begun and thereafter is pursued to completion.
- (B) Commencement of work includes start of construction, when the permitted work requires a building permit.

Section 4.023 Substantial Damage and Substantial Improvement Determination

For applications for permits to improve buildings and structures, including additions, repairs, renovations, and alterations, the Floodplain Administrator, shall:

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal of the market value, of the building or structure before the proposed work is performed; when repair of damage is proposed, the market value of the building or structure shall be the market value before the damage occurred;
- (2) Compare the cost of improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (A) Except as indicated in subsections (d) and (e) below, all costs to repair substantial damage, including emergency repairs, must be included;
 - (B) The costs associated with the correction of pre-existing violations of state or local health, sanitary, or safety code specifications that were identified by the building official, the director of environmental health, or any other local code enforcement official prior to the improvement or repair and that are the minimum necessary to ensure safe living conditions shall not be included;
 - (C) Except as indicated in subsections (d) and (e) below, the costs of complying with any county, state, or federal regulation other than those described in subsection (b) must be included;
 - (D) Costs associated with the following items are not included:
 - (i) The preparation and approval of all required plans, calculations, certifications, and specifications;
 - (ii) The performance of surveys or other geotechnical or engineering studies and resulting reports;
 - (iii) Permit and review fees;
 - (iv) The construction, demolition, repair, or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.;
 - (E) Proposed alterations of a designated historic building or structure is not to be considered substantial improvement unless the alteration causes a loss of said designation.
- (3) The Floodplain Administrator shall make the final determination of whether the proposed improvement and/or repair constitutes a substantial improvement or substantial damage;
- (4) The Floodplain Administrator shall notify the applicant of the results of the determination by letter,
- (5) Applicant has the right to appeal the determination pursuant to Section 4.021.

Section 4.024 Variances

A request for a variance from a standard contained in this chapter shall be reviewed in accordance with the procedures of Section 5.130 - 5.134. The burden to show that the variance is warranted and meets the criteria set out herein is on the applicant.

When considering a variance application, the deciding body shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (A) The danger that materials may be swept onto other lands to the injury of others;
- (B) The danger to life and property due to flooding or erosion damage;
- (C) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (D) The importance of the services provided by the proposed facility to the community;
- (E) The necessity to the facility of a waterfront location, where applicable;
- (F) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (G) The compatibility of the proposed use with existing and anticipated development;
- (H) The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
- (I) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (J) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (K) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

Upon consideration of the factors identified above and the purposes of this ordinance, the deciding body may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

The floodplain administrator shall maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.

The following standards are applicable to a variance request, not those of Section 5.132:

- (1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items A-K in Section 4.204 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases
- (2) Variances shall only be issued upon:
 - (A) A showing of good and sufficient cause,
 - (B) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - (C) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public

expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances may be issued for a water dependent use provided that
 - (A) The criteria of paragraphs (1) through (4) of this section are met, and;
 - (B) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (6) Variances may be issued for the repair or rehabilitation of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section.
- (7) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- (8) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with building codes.
- (9) When a variance is granted, the county shall give written notice to the property owner within five days after the decision is final. The notice shall state that:
 - (A) The structure or manufactured home will be allowed to be built or placed with the lowest floor elevation at or below the base flood elevation, and
 - (B) That the issuance of the variance to construct a structure below the base flood level will result in increased premium rates for flood insurance as high as twenty-five dollars for every one hundred dollars of insurance coverage, and
 - (C) Such construction below the base flood level increases the risk to life and property. The above notification shall be maintained with a record of all variance actions.
- (10) Variance Time Limit. Authorization of a variance shall conform to the requirements of Section 5.134.

Section 4.025 Development Standards

In all areas of special flood hazards as presented on the FIRM, the following standards shall apply for all new construction and substantial improvements:

Site Improvements and Subdivisions:

- (1) All proposed new development and subdivisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.
 - (A) Residential building lots shall have adequate buildable area outside of floodways.
 - (B) All new development proposals and subdivision preliminary plats/development plans shall include the mapped flood hazard zones from the effective FIRM.
 - (C) Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less.

- (D) All new development and subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
 - (E) On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding.
 - (F) All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards. In AO and AH zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.
 - (G) In coastal high hazard areas (V Zones), alteration of sand dunes shall be prohibited unless it has been demonstrated by engineering analysis that the alteration will not increase potential flood damage. All development within
 - (H) New essential and new special occupancy structures shall not be constructed in the Tsunami Inundation Zone. The Tsunami Inundation Zone may include V, A, and potentially other flood zones. If an exception is granted then the Coastal High Hazard Area construction standards in the model ordinance shall apply to the building of these new structures in the Tsunami Inundation Zone.
 - (I) Building Design and Construction: Buildings and structures, including manufactured dwellings, within the scope of the building codes, including repair of substantial damage and substantial improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes, including but not limited to Section R324 of the Residential Specialty Code and Section 1612 of the Structural Specialty Code.
- (2) Manufactured Dwellings:
- (A) New and replacement manufactured dwellings are within the scope of the building codes; and,
 - (B) All new manufactured dwellings and replacement manufactured dwellings shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (1) Construction Materials and Methods:
 - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (3) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
 - (4) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be elevated to one foot above flood level so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (5) Critical Facilities: Construction of new critical facilities shall be, to the extent possible, located outside the limits of the area of special flood hazard. Construction of new critical facilities shall be permissible within the area of special flood hazard if no feasible alternative site is available. Critical facilities constructed within the areas of special flood hazard shall have the lowest floor elevated three feet above BFE (or depth number in AO zones) or to the height of the 0.2 percent (500-year) flood, whichever is higher. Access to and from the

critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances or persistent organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

- (6) Review of Development Permits: Where elevation data is not available, either through the flood insurance study or from other administrative source, applications for development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc. where available. Failure to elevate to at least two feet above grade in these zones may result in higher insurance rates.
- (7) Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding 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:
 - i. A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade; and
 - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic flow of floodwaters in both directions.
- (8) Non-Residential Construction: New construction or substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:

- i. Be flood proofed so that below this level the structure is water tight with walls substantially impermeable to the passage of water;
- ii. Have structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certification shall be provided as set forth in Section 4.018(2).
- iv. Fully enclosed areas below the lowest floor that are subject to flooding 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:
 - 1. A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - 2. The bottom of all openings shall be no higher than one (1) foot above grade; and
 - 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic flow of floodwaters in both directions.

(9) Foundation Protection: A registered professional civil engineer shall develop or review the structural design, specifications and plans for the foundation of the building and shall certify that the design and methods of construction are in accordance with accepted practices to withstand flotation, collapse, lateral movement, erosion and scour, undermining, and the effects of water and wind acting simultaneously on all building components during the base flood.

(10) Crawlspace:

- (A) Crawlspace construction shall meet the standards for space below the lowest floor as described for residential construction in Section 4.025(7).
- (B) 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 but also any joists, insulation, or other materials that extend below the BFE.
- (C) Any ductwork, or other building utility system, within the crawlspace must be elevated above the BFE or sealed from floodwaters.
- (D) Below-grade crawlspaces (i.e., where the interior grade of the crawlspace is below the building's lowest adjacent exterior grade) must be constructed in accordance with Figure 1 below:

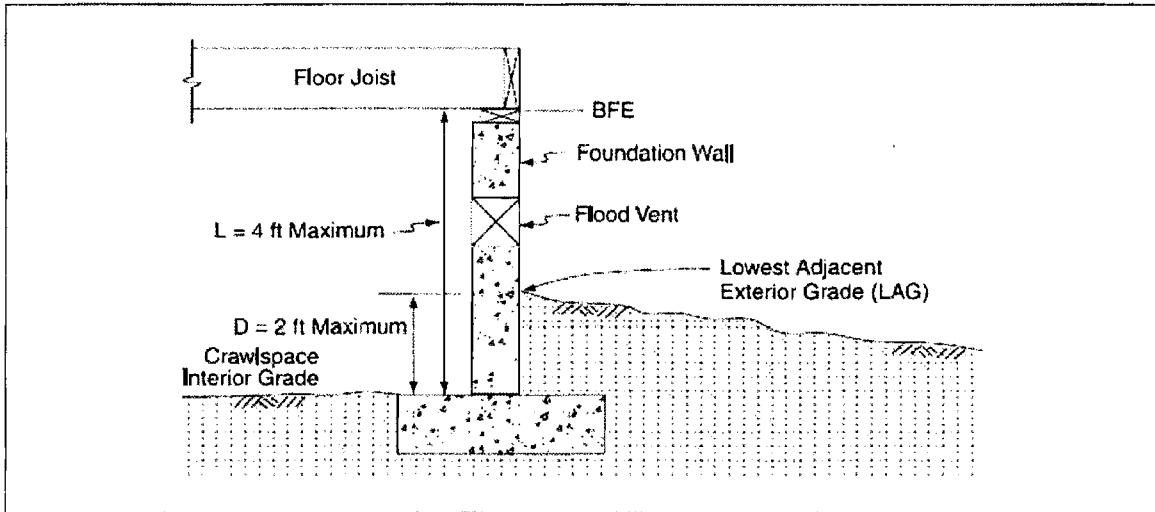


Figure 1: Requirements for below-grade crawlspace construction. (Provided by FEMA)

- (E) The crawlspace must be provided with an adequate drainage system that removes floodwaters from the interior of the crawlspace within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage considerations, 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.
- (11) Fences and Walls: New fencing shall be designed to collapse under conditions of the base flood or to allow the passage of water by having flaps or openings in the areas at or below the base flood elevation sufficient to allow flood water and associated debris to pass freely.
- (12) On-site Sewage Systems:
 - (A) Soil absorption systems shall be located outside of flood hazard areas. Where suitable soil absorption sites outside of the flood hazard area are not available, the soil absorption site is permitted to be located within the flood hazard area provided it is located to minimize the effects of inundation under conditions of the base flood.
 - (B) Mound systems in flood hazard areas shall be prohibited.
- (13) Tanks
 - (A) Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.
 - (B) Above-ground tanks in flood hazard areas shall be:
 1. Attached to and elevated to or above the base flood elevation (or depth number in AO zones) on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood; or be
 2. Anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.

- (C) Tank inlets, fill openings, outlets and vents shall be:
 1. a minimum of 2 feet above BFE or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the design flood; and
 2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

- (14)** Protection of Floodplain Storage Capacity: Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. Any such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

- (15)** Recreation Vehicle: In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the zoning ordinance must either:
 - (A)** Be on the site for fewer than 180 consecutive days, and
 - (B)** Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site on ly by quick disconnect type utilities and security devices, and have no permanently attached structures or additions; or
 - (C)** Meet the elevation and anchoring requirements for manufactured homes listed in Section 4.025.

- (16)** Accessory Structures

Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 200 square feet. Such a structure must meet the following standards:

 - (A)** The accessory structure is not subject to building codes;
 - (B)** The accessory structure shall be located on property with a dwelling;
 - (C)** The accessory structure shall not be used for human habitation and shall be used solely for parking of vehicles or storage of items having low damage potential when submerged.
 - (D)** Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below BFE, or where no BFE is available lower than three feet above grade, unless confined in a tank installed in compliance with this ordinance;
 - (E)** The accessory structure shall be constructed of flood resistant materials.
 - (F)** The accessory structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
 - (G)** The accessory structure shall be firmly anchored to prevent flotation;
 - (H)** All service facilities, such as electrical and heating equipment associated with the accessory structure, shall be elevated or flood proofed to or above the flood protection elevation, and;
 - (I)** It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect or

- (a) provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- (b) the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening;
- (c) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.

(17) Temporary Structures, Storage, and Bridges

A floodplain development permit is required for construction or placement of temporary structures, temporary storage associated with non-residential uses, and temporary bridges located in areas of special flood hazard:

- (A) Temporary structures, not including bridges, shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant a one-time extension, not to exceed 45 days, for demonstrated cause; such cause shall reaffirm the temporary nature of the structure. Temporary structures shall be anchored to prevent flotation, collapse, or lateral movement.
- (B) Temporary storage of materials shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant a one-time extension, not to exceed 45 days, for demonstrated cause; such cause shall reaffirm the temporary nature of the storage. Stored material shall be anchored or contained to prevent flotation or release outside the assigned storage area. Hazardous materials or materials deemed to be persistent organic pollutants by the Oregon Department of Environmental Quality shall not be stored in the floodway.
- (C) Temporary encroachments in the floodway for the purposes of capital improvement projects (including bridges) require a floodplain development permit. No CLOMR/LOMR is required.

Section 4.026 Development in Floodways

- (1) Except as provided in paragraphs (3) and (4), encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) Any fill allowed to be placed in the floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.
- (3) Applicants shall obtain a Conditional Letter of Map Revision (CLOMR) before an encroachment in the floodway is permitted that will cause any increase in the base flood elevation.
- (4) Projects for stream habitat restoration may be permitted in the floodway provided:
 - (a) The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023); and,

- (b) A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in 100-year flood levels as close to zero as practically possible given the goals of the project; and,
 - (c) No structures would be impacted by a potential rise in flood elevation; and,
 - (d) An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the local approval.
- (5) Construction of new fencing is prohibited, unless the fencing is designed to collapse or break-away, and is anchored at one end and cabled together so as to not create debris. As an alternative to a break-away design, a new fence may be designed to allow the passage of water by having a flap or opening in the areas at or below the base flood elevation sufficient to allow floodwaters to pass freely.

Section 4.027 Zones with Base Flood Elevation but no Floodway

- (1) In areas within Zones A1-30 and AE on the community's FIRM with a base flood elevation, or where a base flood elevation is developed according to Section 4.025(2) but where no regulatory floodway has been designated, new construction, substantial improvements, or other development (including fill) shall be prohibited, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (2) Applicants of proposed projects that increase the base flood elevation more than one foot should obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted.

Section 4.028 Zones Without Base Flood Elevations

These standards apply in riverine areas of special flood hazard where no base flood elevation data have been provided (A Zones):

- (1) When base flood elevation or floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic base flood elevation and floodway data available from a federal, state, or other source, in order to administer this ordinance. If data are not available from any source, only then subsection 3 shall apply.
- (2) Where the floodplain administrator has obtained base flood elevation data, applicants of proposed projects that increase the base flood elevation more than one foot shall obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted.
- (3) In special flood hazard areas without base flood elevation data, no encroachments, including structures or fill, shall be located in an Area of Special Flood Hazard within an area equal to the width of the stream or fifty feet, whichever is greater, measured from the ordinary high water mark, unless a base flood elevation is developed by a licensed professional engineer.

Section 4.029 Coastal High Hazard Area

All other development in coastal high hazard areas (V Zones) for which specific provisions are not specified in this ordinance or building codes, shall:

- (1) Be located outside the footprint of, and not structurally attached to, buildings and structures, and be permitted only if analysis by a registered design professional demonstrates no

harmful diversion of floodwaters or wave runup and wave reflection onto adjacent buildings and structures.

Exception: A deck that is structurally attached to a building or structure is allowed if the bottom of the lowest horizontal structural member is one (1) foot above the base flood elevation and any supporting members that extend below the base flood elevation comply with the foundation requirements that apply to the building or structure and a registered design professional demonstrates that the potential loads generated by the deck on the building will be mitigated.

- (2) Have nonstructural fill no steeper than one unit vertical to five units horizontal unless an engineering analysis demonstrates no harmful diversion of floodwaters or wave runup and wave reflection on adjacent development;
- (3) Not alter, or cause to be altered, sand dunes in such a way to cause increased potential flood damage.
- (4) Be anchored to prevent flotation or lateral movement resulting from wind and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
- (5) Be constructed of flood damage- and corrosion-resistant materials;
- (6) Be designed to limit creation of debris, and;
- (7) Have electric service and or mechanical equipment elevated above the base flood elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements.

Section 4.030 Non-Coastal High Hazard Areas

All development in non-coastal high hazard areas (A zones) for which specific provisions are not specified in this ordinance or building codes, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Be designed so as not to impede flow of flood waters under base flood conditions;
- (3) If located in a floodway, meet the limitations of Section 4.027 of this ordinance;
- (4) Be anchored to prevent flotation or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (5) Be constructed of flood damage-resistant materials; and
- (6) Have electric service and or mechanical equipment elevated above the base flood elevation (or depth number in AO zones), except for minimum electric service required to address life safety and electric code requirements.

Section 4.031 Specific Standards for Areas of Shallow Flooding (AO and AH Zone)

In all areas of special flood hazards designated as areas of shallow flooding, the following provisions shall apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor including basement elevated to one foot plus the depth number specified on the FIRM above the highest adjacent grade on the property. The adjacent grade is defined to be the natural or existing grade of the site prior to the proposed site alteration. If no depth number is specified on the FIRM, the lowest floor including basement shall be elevated to at least two feet above the highest adjacent grade.
- (2) All construction and substantial improvement of non-residential structures shall:
 - (A) Have the lowest floor including basement elevated to one foot plus the depth number specified on the FIRM above the highest adjacent grade on the property. The adjacent grade is defined to be the natural or existing grade of the site prior to

the proposed site alteration. If no depth number is specified on the FIRM, the lowest floor including basement shall be elevated to at least two feet above the highest adjacent grade; or

- (B) Together with attendant utility and sanitary facilities be completely flood proofed to meet the flood proofing standard of Section 4.025(8).
- (3) Provide adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

Section 4.032 Requirement to Submit New Technical Data

- (1) Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA, or whose development modifies floodplain boundaries or base flood elevations shall obtain from FEMA a Letter of Map Revision (LOMR) reflecting the as-built changes to the FIRM.
- (2) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- (3) Applicants shall be responsible for all costs associated with obtaining a Conditional Letter of Map Amendment (CLOMR) or Letter of Map Revision from FEMA.
- (4) Clatsop County shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application.

Clatsop County



DATE: August 23, 2010
TO: Clatsop County Board of Commissioners
FROM: Jennifer Bunch, CFM *J. Bunch*
Transportation & Development Services
RE: Protection of Floodplain Storage Capacity

LWDUO Section 4.030(4) *Protection of Floodplain Storage Capacity* requires,

"Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. Any such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation."

In short, for any amount of fill placed within a Special Flood Hazard Area (SFHA), the equivalent amount must be excavated within the floodplain. Staff recognizes that this "teaspoon in, teaspoon out" requirement can create a hardship especially when developing residential property. For example, in the Miles Crossing/Jeffers Garden (MC/JG) the minimum lot size in the RCC zone, for those served by the sewer district, is 7,500 square feet. In many cases an extensive amount of fill is needed to construct a dwelling above the new BFE and the smaller lot sizes don't allow for the equivalent excavation.

Staff also recognized the intent of the "teaspoon in, teaspoon out" rule. Any fill placed in the floodplain can cause floodwaters to be displaced and affect the flood level on adjacent properties.

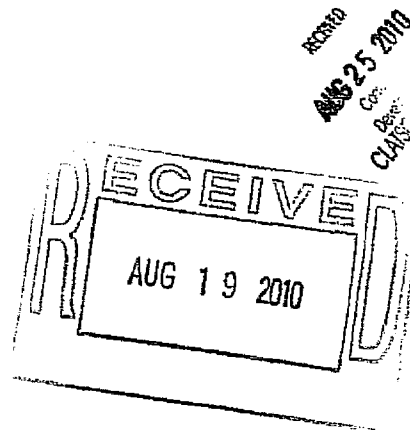
Therefore, if the Board of Commissioners chooses to modify this standard, staff would recommend the following modification:

"Whenever any portion of a floodplain is authorized for development, the volume of space occupied by the authorized fill below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation. Any such excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation." The placement of fill for the new or substantial construction of a one-family or two-family dwelling of any size or residential accessory structure that is less than 2,000 square-feet is exempt from this requirement.

Transportation and
Development Services
800 Exchange Street
Suite 100
Astoria, Oregon 97103

Land Use Planning
Telephone (503) 325-8611
Fax (503) 338-3666

Howard N. Kern
92878 Waterhouse Road
Astoria, Oregon 97103



Clatsop Co. Board of Commissioners,
800 Exchange Street, Suite 100
Astoria, Oregon 97103

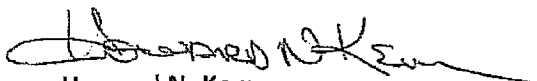
Board of Commissioners:

My recommendation on Ordinance 80-14 is to **VOTE NO**, to adopt new FEMA flood insurance maps.

My reason is that FEMA has not done a complete job of mapping in understanding the 100 year flood plains in areas of Clatsop County. Their map would create "undue cost" in insurance too people that have mortgage's that have never had flooding problems. Some of these homes would also lose more value, and be hard to sell or get mortgages, therefore also losing tax revenue for the county or state.

Clatsop County Board of Commissioners should recommend that FEMA redo their maps to what is reality.

Respectively,


Howard N. Kern

August 14th, 2010

Landowner

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Minutes of July 13, 2010
Clatsop County Planning Commission **Regular** Session
Judge Guy Boyington Building
857 Commercial Street
Astoria, Oregon 97103

Vice Chairperson Brian Pogue called the Clatsop County Planning Commission meeting to order at 10:00 AM.

<u>Planning Commissioners (PCs)</u>	<u>Absent:</u>	<u>Staff Present:</u>
<u>Present:</u>		
Christine Bridgens	Cary Johnson, excused	Will Caplinger
Marcia Harper-Vellutini		Michael Weston
Brian Pogue		Jennifer Bunch
Mike Autio		Blair Henningsgaard
Clarke Powers		Ed Wegner

Business from the Public

No one from the public asked to speak.

Minutes

PC Autio moved and PC Bridgens seconded to approve the June 8, 2010 minutes as presented. Motion passed unanimously. PC Powers abstained from the vote as he was not present at the meeting.

Public Hearings

Ordinance 10-04, amending the Comprehensive Plan/Zoning Map and text by rezoning approximately 1.27 Acres from Tourist Commercial to Residential Agriculture 2.

No ex parte contacts or conflicts of interest were reported.

Michael Weston, Planner, presented the staff report. The rezone is required in order for the applicants to obtain a mortgage, as their lender will not support a residential use in a commercial zone. Mr. Weston went on to describe the criteria, explaining that some statewide planning goals do not apply in this case. He continued to report that Goals 1-18, excluding Goal 15, along with Goal Change Criterion have all been addressed and the criterion has been satisfied.

PC Powers moved and PC Bridgens seconded to adopt the findings of the staff report as presented and approve the zone change. Motion passed unanimously.

Vice Chairperson Pogue called a brief recess at 10:10. Called back to order at 10:13

Ordinance 10-03, text amendments to the LWDUO 80-14 Flood Hazard Overlay and adoption of new FEMA Flood Hazard Maps.

1 Jennifer Bunch, Planner, submitted two letters as exhibits for the record, one from Jon
2 Johnson and one from John Piatt. Ms. Bunch then presented the staff report along with
3 a PowerPoint presentation, starting with some background on the FEMA Map
4 Modernization process. In 2003, FEMA began digitizing the nation's flood maps. At the
5 same time as this process, FEMA incorporated two changes: 1) a new flood study in the
6 Seaside area involving the Neanicicum River, Neawanna Creek, and Beerman Creek,
7 and 2) decertification of levees (dikes).

8
9 In September 2007 FEMA provided preliminary maps and study to Clatsop County. In
10 February of 2008 FEMA published public notice of map changes and the appeal process
11 began. On May 28, 2008, Clatsop County and the City of Warrenton submitted an
12 appeal to FEMA. On May 12, 2009, FEMA responded to the appeal, stating that it was
13 being "evaluated." On July 6, 2009, FEMA issued Revised Preliminary FIRMs (Flood
14 Insurance Rate Maps) with minor adjustments (City of Warrenton). On March 17, 2010
15 FEMA issued the Letter of Final Determination (LFD) to Clatsop County. Clatsop County
16 is required to adopt the FIS and FIRMs before September 17, 2010, or face suspension
17 from the NFIP (National Flood Insurance Program), thus making Clatsop County
18 property owners ineligible for the renewal of flood insurance policies and the issuance of
19 new policies.

20
21 As part of the adoption of the new FIS and FIRMs, Clatsop County is required to update
22 its flood hazard policies to ensure compliance with State and Federal regulations.

23
24 Ms. Bunch continued, stating that all dikes and levees in Clatsop County have been
25 decertified. Diking districts will need to be reactivated and dikes will need to be
26 evaluated by professional engineers prior to recertification. Ms. Bunch estimated the
27 average increase to the base flood elevation to be three and one half feet.

28
29 If a property is within a flood area, all federally-backed mortgages require flood
30 insurance. If this plan is not adopted, Clatsop County would be suspended from the
31 program. If there is a flooding event, there would be no flood insurance, no renewals of
32 flood insurance, and no federal disaster funds.

33
34 Ms. Bunch further described the changes that were made, i.e. text amendments,
35 addition of some definitions, referencing of building codes, and clarification of the
36 building permit process. These changes are all required by FEMA.

37
38 Following a question from PC Powers, Ms. Bunch stated that the Planning Department
39 has been working with both Senator Wyden and Senator Merkley's offices in an effort to
40 intervene in FEMA's decision.

41
42 Following questions from PCs Bridgens and Pogue, Ms. Bunch stated that the maps can
43 be changed, but there are procedures that must be followed, and that until that happens,
44 people will be in a flood zone. The diking districts will need to be reactivated and hire
45 engineers to evaluate their dikes. Following a question from PC Pogue, Ms. Bunch
46 stated that there are 15 diking districts. One of the problems is that private engineers do
47 not want to approve the dikes because of the liability. The best way is to hire the Corps
48 of Engineers, but it is still going to cost \$40-\$50,000 per dike for the evaluation.

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1 Public Testimony

2
3 Jon Johnson, 33225 Beer man Creek Ln, Seaside, stated that he has been trying to build
4 a house on a property that has been in his family since the 1920s. This property has
5 never had any flooding, but the flood elevation is going to be raised about 6' with new
6 FEMA maps. He stated that the government is holding us hostage, especially if the
7 maps are wrong.

8
9 Bruce Rath, 85911 Hwy 101, Seaside, stated that he didn't see why this can't be
10 passed, but Clatsop County needs to work on the maps to get them revised.

11
12 In response to a question from Phil Rivera, 90592 Ft. Clatsop Road, Astoria, Ms. Bunch
13 stated that everything presented today is available online.

14
15 Marilyn Putman, 91553 Overlook Dr, Clatskanie, stated that residents of River Ranch
16 hired HLB Otak and were able to get a letter of map modification so they are no longer in
17 the flood plain anymore, but the maps still show them as being in a flood plain. Ms.
18 Putman continued that it took them about 3-6 months to complete the process.

19
20 Larry Jackson, 84721 Happel Lane, Seaside, ques tioned if this program covered a
21 tsunami event. PC Harper-Vellutini answered yes, as tsunamis are covered only
22 through flood insurance, and that flood insurance rates are based on replacement costs
23 of the structure, not current value. Mr. Jackson recommended that Clatsop County
24 reject this as his property has never flooded and he feels that it's a money grab by
25 FEMA.

26
27 In answer to a question from PC Pogue, Ms. Bunch stated that map amendments can be
28 done, but it's not easy and costs lots of money.

29
30 Following another question from PC Pogue, PC Harper-Vellutini stated that private
31 insurance companies are not allowed to write flood policies; all flood policies are backed
32 by the federal government.

33
34 Responding to PC Autio's question, Ms. Bunch stated that the costs of development will
35 increase, along with the costs of construction.

36
37 Dale Barrett, 4293A Hwy 101N, Seaside, stated that he didn't understand the need for a
38 public hearing if Clatsop County has to adopt. He stated hi s concerns about significant
39 errors in transferring old maps to digital maps. Mr. Barrett works for HLB Otak and
40 stated that his fee for getting a letter of map amendment is \$2000-\$5000. It takes FEMA
41 about 2 months to respond. Mr. Barrett spoke about the difficulty of "no-rise"
42 certifications; most engineers are reluctant to do them.

43
44 In response to questions from PC Pogue and PC Harper-Vellutini, Mr. Barrett stated that
45 the Corps of Engineers can do dike certification, but it may take up to 2 years.

46
47 Responding to a question from PC Pogue, Ms. Bunch stated that about 2250 notices
48 were sent to property owners.

49
50 John Jensen, 92270 Stoner Road, Astoria, is building a house that has to be in the air
51 7.5 feet and questioned whether or not this has been approved yet. Ms. Bunch

1 answered no but that the County is obligated to use the best available data (since the
2 appeal deadlines have passed), and we are required to use the new maps now.
3 Following a question from PC Pogue, PC Powers stated that there are insurance
4 companies that will cover any amounts above the \$250,000 maximum covered by the
5 NFIP.

6
7 Craig Adams, 92319 Stoner Road, Astoria, stated that we may as well adopt it, because
8 we can't fight it.

9
10 Richard Lee, 92257 Lewis and Clark Road, Astoria, urged Clatsop County Planning
11 Commission to vote against this at the present time. The ocean doesn't flood so we
12 should wait and see how other counties/entities are going to handle this.

13
14 Jim Neikes, 34755 Hwy 101 Business, Astoria, discussed Clatsop County's teaspoon
15 in/teaspoon out policy. Ms. Bunch responded by saying that Clatsop County has a fill
16 policy that within the flood plain, if you bring in 10 yds of fill, you need to remove 10 yds
17 of fill in order to not impact your neighbors.

18
19 Public testimony was closed at 11:27.

20
21 PC Powers stated that he didn't want to roll over and play dead. He went on to state
22 that our representatives should demand an explanation from FEMA and that all
23 indications point to the maps being in error. He further stated that we should request an
24 extension of the effective date.

25
26 Blair Henningsgaard, County Counsel, stated that anything decided here goes to the
27 Board of Commissioners.

28
29 Ms. Bunch responded to PC Powers question by stating that an extension was denied
30 by FEMA.

31
32 PC Harper-Vellutini stated that the county's hands have been tied for a long time by
33 FEMA and feels that we have no option but to pass it. She didn't want to make it so
34 people can't get flood insurance.

35
36 PC Pogue stated that it looked like we had no choice but to pass it. PC Harper-Vellutini
37 stated that it is a nation-wide problem, not just in Clatsop County.

38
39 **PC Powers moved and PC Harper-Vellutini seconded to recommend that**
40 **the Board of Commissioners adopt the Legislative Text Amendments to**
41 **Section 4.000 – Flood Hazard Overlay – of Land and Water Development**
42 **and Use Ordinance.**

43
44 **It is also recommended that the Board of County Commissioners pursue,**
45 **through state and federal representatives, an explanation from FEMA as**
46 **to why the appeal by Clatsop County was ignored, and why the pre-**
47 **liminary maps were put forth despite the lack of sufficient public review**
48 **and documented errors. Motion passed unanimously.**

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As there was no other business, meeting was adjourned at 11:35.

Respectfully submitted,


SIGNED ORIGINAL ON FILE

Cary Johnson
Chairperson - Planning Commission



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CLATSOP COUNTY

**Transportation and Development Services
Land Use Planning**

800 Exchange Street, Suite 100
Astoria, Oregon 97103
(503) 325-8611 • Fax (503) 338-3666

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

FIRST CLASS MAIL